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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 JEFF MILLER,

12 Plaintiff,

13 v.

14 JOSEPH GLENN OSBORNE, et
15 al.,

16 Defendant.
17

Case No.: 18cv279-LAB (NLS)

**ORDER GRANTING MOTION TO
PROCEED IN FORMA
PAUPERIS;**

**ORDER TO SHOW CAUSE RE:
REMAND; AND**

ORDER VACATING HEARING

18
19 Defendant Joseph Osborne, proceeding *pro se*, removed this action from
20 state court, identifying federal question as the basis for the Court's exercise of
21 jurisdiction. Although the claims are pled under state law, Osborne argues they
22 are completely preempted by federal law.

23 Osborne did not pay the filing fee, but filed a motion to proceed *in forma*
24 *pauperis* ("IFP"). The IFP motion shows Osborne lacks the funds to pay the filing
25 fee, and leave to proceed IFP is **GRANTED**.

26 Actions commenced under the IFP statute, 28 U.S.C. § 1915(e), are subject
27 to a mandatory screening. In addition, the Court is obligated to inquire into
28 jurisdiction over removed action and to remand cases where jurisdiction is lacking,

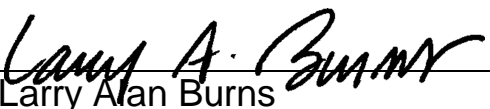
1 *sua sponte* if necessary. See *Mt. Healthy City School Dist. Bd. of Ed. v. Doyle*,
2 429 U.S. 274, 278 (1977) (holding that federal courts must inquire *sua sponte*
3 whenever its jurisdiction is in doubt); *Smith v. Mylan, Inc.*, 761 F.3d 1042, 1044 (9th
4 Cir. 2014) (citing 28 U.S.C. § 1447(c)) (holding that district courts must remand
5 removed case *sua sponte* if at any time before final judgment it appears that
6 jurisdiction is lacking).

7 Plaintiff Jeff Miller, who is represented by counsel, filed a motion to
8 remand with a hearing date of April 16, 2018. As the removing party, Osborne
9 bears the burden of showing that the Court has jurisdiction over this case. See
10 *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992). Under Civil Local Rule
11 7.1(e)(2), the opposition was due April 2, but Osborne has filed none. Under Civil
12 Local Rule 7.1(f)(3)(c), failure to file an opposition may be construed as consent to
13 the motion's being granted.

14 Osborne is **ORDERED TO SHOW CAUSE** why the case should not
15 immediately be remanded. He may do so by filing his written opposition to the
16 motion for remand by **April 18, 2018**. If he fails to show cause within the time
17 permitted, this action will be remanded. The hearing on the motion for remand is
18 **VACATED**.

19
20 **IT IS SO ORDERED.**

21 Dated: April 11, 2018

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23 
24 Hon. Larry Alan Burns
25 United States District Judge
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