

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 12 2018

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NATASHA SHPAK; et al.,

No. 16-56323

Plaintiffs-Appellees,

D.C. No.

5:16-cv-01687-MWF-KK

v.

MALCOLM CURTIS and JUDITH
CURTIS,

ORDER*

Defendants-Appellants,

and

BELZONA SYSTEMS OF CALIFORNIA,
INC.; et al.,

Defendants.

Appeal from the United States District Court
for the Central District of California
Michael W. Fitzgerald, District Judge, Presiding

Submitted February 8, 2018**
Pasadena, California

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: GRABER and HURWITZ, Circuit Judges, and MARBLEY, *** District Judge.

This is an appeal from the district court's rejection of a "notice of removal," which sought to "remove" an action pending in the United States District Court for the Eastern District of New York to the Central District of California. The notice, however denominated, was in substance a motion to transfer venue under 28 U.S.C. § 1404(a), and the district court's order thus effectively was a denial of the requested transfer. That order was not a final judgment under 28 U.S.C. § 1291. *See Pac. Car & Foundry Co. v. Pence*, 403 F.2d 949, 951 (9th Cir.1968) ("[O]rders respecting venue entered under § 1404(a) and § 1406(a) are interlocutory in nature and are not appealable prior to final judgment."). We therefore dismiss the appeal for want of jurisdiction. This order shall constitute the mandate of this court.

*** The Honorable Algenon L. Marbley, United States District Judge for the Southern District of Ohio, sitting by designation.