

1 **WO**

2

3

4

5

6

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

7

8

9 Paul B. Mohr, Jr. and Lydia Bustamante-)
10 Mohr, husband and wife,)

No. CV-10-153-PHX-DGC

11 Plaintiffs,)

ORDER

12 vs.)

13 Murphy Elementary School District 21)
14 of Maricopa County; William E. Grimes)
and Theresa M. Grimes; and Terri)
Swanson and John Doe Swanson,)

15 Defendants.)
16

17 Plaintiffs filed a complaint against Defendants in state court on November 9, 2009.
18 Dkt. #1-1 at 8-13. The complaint sought declaratory relief based on contract and the Arizona
19 Constitution. *Id.* ¶¶ 20-24. The amended complaint, filed in state court on January 14, 2010,
20 asserts five claims: violation of Arizona’s open meeting law, declaratory judgement based
21 on contract, declaratory judgment based on Arizona statutory rights and federal due process
22 rights, federal civil rights violations under 42 U.S.C. § 1983, and tortious interference with
23 contract. Dkt. #1-3 at 75-88. On January 25, 2010, Defendants removed the action to this
24 Court based on federal question jurisdiction. Dkt. #1.

25 Plaintiffs have filed a motion to remand, arguing that removal was improper because
26 Defendants did not remove the case within 30 days of when they were first on notice of a
27 federal question. Dkt. #7. Plaintiffs also have filed a motion for temporary restraining order
28 and order to show cause. Dkt. #8. The Court will deny that motion to the extent it seeks a

1 temporary restraining order. Plaintiffs request an expedited ruling on the motion to remand,
2 not injunctive relief. Moreover, Plaintiffs have not shown that they are likely to succeed on
3 the merits of the remand issue. *See Am. Trucking Ass'n, Inc. v. City of L.A.*, 559 F.3d 1046,
4 1052 (9th Cir. 2009) (setting forth standard for injunctive relief).

5 The Court will grant Plaintiffs' motion (Dkt. #8) to the extent they request an
6 expedited ruling on the motion to remand. Defendant shall file a response to the motion to
7 remand by February 5, 2010. Plaintiffs shall file a reply by February 10, 2010. The Court
8 will then issue a prompt ruling on the motion. The Court will set the matter for a hearing
9 only if oral argument will aid the Court's decision. *See Fed. R. Civ. P. 78(b); Lake at Las*
10 *Vegas Investors Group, Inc. v. Pac. Malibu Dev. Corp.*, 933 F.2d 724, 729 (9th Cir. 1991);
11 *Partridge v. Reich*, 141 F.3d 920, 926 (9th Cir. 1998).

12 **IT IS ORDERED:**

- 13 1. Plaintiffs' motion for temporary restraining order and order to show cause
14 (Dkt. #8) is **granted in part** and **denied in part**. The motion is denied as to
15 the request for a temporary restraining order and granted to the extent
16 Plaintiffs seek an expedited ruling on the motion to remand (Dkt. #7).
- 17 2. Defendants shall file a response to the motion to remand by **February 5, 2010**,
18 and Plaintiffs shall file a reply by **February 10, 2010**. Plaintiffs shall call the
19 Court once the reply has been filed and the Court will then issue a prompt
20 ruling.

21 DATED this 1st day of February, 2010.

22
23 

24
25

David G. Campbell
United States District Judge