

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

**BIG ROCK
DEVELOPMENT, LLC PLAINTIFF/COUNTER DEFENDANT**

v. No. 4:20-cv-1149-DPM

**DAVID K. PAPEN, Individually; OMEGA
MOD GROUP, INC.; ECOLOGIC SYNERGIES
INTERNATIONAL, INC.; ECOLOGIC
MODULARS, LLC; MONSTER MOD, INC.;
BAD DONKEY DEVELOPMENT, LLC;
OMG 4REAL PROPERTIES, INC.;
ECOEVOLUTION ASSETS, LLC; OMEGA
SUPPLY GROUP, INC.; OMEGA BUILDERS
GROUP, INC.; OMG INVESTMENTS
GROUP, INC.; OMG WORLD HOLDINGS, INC.;
ALL ABODE, INC.; OMEGA TWIN RIVER
HOLDINGS II, LLC; MODERN MOD, INC.;
BRAND BUILT SYSTEMS, INC.; OMEGA TWIN
RIVER HOLDINGS, LLC; MONSTER TINY, LLC;
STEAMPUNK TRAILER AND METALWORKS,
INC.; and FIRST COMMUNITY BANK DEFENDANTS**

DAVID K. PAPEN DEFENDANT/COUNTER PLAINTIFF

v.

**BIG ROCK
DEVELOPMENT, LLC PLAINTIFF/COUNTER DEFENDANT**

**RESORTMENTS, LLC; SILVERTOWN, LLC;
and RUSSELL R. HUCKABY THIRD PARTY DEFENDANTS**

ORDER

The Court doesn't have subject matter jurisdiction to hear this case on removal. First, there's no federal question jurisdiction. Big Rock's well-pleaded complaint raises no issues of federal law. 28 U.S.C. § 1441(a); *Metropolitan Life Insurance Co. v. Taylor*, 481 U.S. 58, 63 (1987). The Missouri defendants press a counterclaim under the Defense of Trade Secrets Act. While they could have made that claim in federal court as an original matter, here it is beyond the complaint and does not suffice. *Vaden v. Discover Bank*, 556 U.S. 49, 60-61 (2009). Second, no diversity jurisdiction exists. Plaintiff Big Rock and defendant First Community Bank are both Arkansas citizens. 28 U.S.C. § 1441(b)(2); *Wisconsin Department of Corrections v. Schacht*, 524 U.S. 381, 388 (1998). The Missouri defendants urge that Big Rock's complaint names the Bank but seeks no relief against it. True. But the Bank has advanced several hundred thousand dollars to the Missouri defendants, Big Rock is on the hook for that money, and Big Rock might have a colorable claim under Arkansas law against the bank based on the parties' dealings. Big Rock's joinder of the Bank in the case that will sort all the parties' obligations was therefore not fraudulent. *Wilkinson v. Shackelford*, 478 F.3d 957, 964 (8th Cir. 2007). This case is remanded to the Circuit Court of Independence County, Arkansas. 28 U.S.C. § 1447(c).

So Ordered.

DP Marshall Jr.
D.P. Marshall Jr.
United States District Judge

13 October 2020