

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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CIVIL MINUTES - GENERAL

Case No.	CV 10-6585 CAS (FMOx)	Date	October 5, 2010
Title	DUSTIN KELLER ET AL. V. BROKEN ANGEL, LLC ET AL.		

Present: The Honorable **CHRISTINA A. SNYDER**

CATHERINE JEANG	Not Present	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:	
Not Present	Not Present	

Proceedings: (In Chambers:)
ORDER TO REMAND FOR LACK OF SUBJECT MATTER JURISDICTION

I. INTRODUCTION

On June 29, 2010, Dustin Keller, Dustin Meisner, Salvador Mejia, Louis Dargenzio, and Charles Post (collectively, "Plaintiffs") filed the third amended complaint in the Superior Court of California against Broken Angel, LLC, Film Payment Services, Inc., John Safyurtlu, and Leslie Bates. Defendant Safyurtlu removed the action to federal court on September 2, 2010.

II. DISCUSSION

The third amended complaint contains eight causes of action. The fourth and fifth causes of action, alleging violations of the Fair Labor Standards Act, are the only ones that involve federal law. The record indicates that plaintiffs filed a request to dismiss the fourth and fifth causes of action on August 30, 2010, in the Los Angeles County Superior Court. Defendant removed on September 2, 2010, apparently because it was unaware of plaintiffs' request for dismissal. Def.'s Resp. 3 ¶¶ 10-11.

A claim "arises under" the laws of the United States, for purposes of construing 28 U.S.C. § 1331, only if "a well-pleaded complaint establishes either that (1) federal law creates the cause of action or that (2) the plaintiff's right to relief necessarily depends on resolution of a substantial question of federal law." Franchise Tax Bd., 463 U.S. at 27-28. As to the second prong, the issue turns on whether the complaint includes "allegations of federal law that are essential to the establishment of the claim." Lippit v.

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Raymond James Fin. Servs., Inc., 340 F.3d 1033, 1041 (9th Cir. 2003).

Because plaintiffs have dismissed the federal claims, this Court lacks subject matter jurisdiction under 28 U.S.C. § 1331. Furthermore, there does not appear to be any alternative basis for this Court to exercise jurisdiction over this action. Therefore, the Court REMANDS the instant action to Los Angeles County Superior Court.

IT IS SO ORDERED.

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Initials of Preparer	CMJ		