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**United States District Court  
Central District of California**

8 MARK BOULLET,

9  
10 Plaintiff,

11 v.

12 GEODIS WILSON USA, INC. KEN  
13 SMITH, and DOES 1 through 250,  
14 inclusive,

15 Defendants.

Case No. 14-cv-03990-ODW(FFMx)

**ORDER REMANDING CASE TO  
SUPERIOR COURT**

16 On May 23, 2014, Defendants removed this action to this Court, invoking  
17 diversity jurisdiction under 28 U.S.C. § 1332 and 1441. (ECF No. 1.) But after  
18 considering Defendants' Notice of Removal, the Court finds that it lacks subject-  
19 matter jurisdiction over this action. The Court therefore **REMANDS** this case to Los  
20 Angeles County Superior Court, case number BC541966.

21 Federal courts are courts of limited jurisdiction, having subject-matter  
22 jurisdiction only over matters authorized by the Constitution and Congress. U.S.  
23 Const. art. III, § 2, cl. 1; e.g., *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S.  
24 375, 377 (1994). A defendant may only remove a suit filed in state court if the federal  
25 court would have had original jurisdiction over the suit. 28 U.S.C. § 1441(a). But  
26 courts strictly construe the removal statute against removal jurisdiction, and federal  
27 "jurisdiction must be rejected if there is any doubt as to the right of removal in the  
28 first instance." *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992). The party

1 seeking removal bears the burden of establishing federal jurisdiction. *Durham v.*  
2 *Lockheed Martin Corp.*, 445 F.3d 1247, 1252 (9th Cir. 2006) (citing *Gaus*, 980 F.2d at  
3 566).

4 Federal courts have original jurisdiction where an action presents a federal  
5 question under 28 U.S.C. § 1331 or diversity of citizenship under 28 U.S.C. § 1332.  
6 To exercise diversity jurisdiction, a federal court must find complete diversity of  
7 citizenship among the adverse parties, and the amount in controversy must exceed  
8 \$75,000, usually exclusive of interest and costs. 28 U.S.C. § 1332(a). Alternatively,  
9 diversity jurisdiction can be established under the Class Action Fairness Act  
10 (“CAFA”). Under CAFA, diversity jurisdiction exists in “mass action” suits so long  
11 as the following requirements are met: (1) 100 or more plaintiffs; (2) common  
12 questions of law or fact between plaintiffs’ claims; (3) minimal diversity, where at  
13 least one plaintiff is diverse from one defendant; (4) aggregated claims in excess of \$5  
14 million; and (5) at least one plaintiff’s claim exceeding \$75,000. 28 U.S.C. § 1332(d);  
15 *Abrego v. Dow Chem. Co.*, 443 F.3d 676, 689 (9th Cir. 2006).

16 For complete-diversity purposes, a natural person’s citizenship is “determined  
17 by her state of domicile, not her state of residence.” *Kantor v. Warner-Lambert Co.*,  
18 265 F.3d 853, 857 (9th Cir. 2001); *see also Jeffcott v. Donovan*, 135 F.2d 213, 214  
19 (9th Cir. 1943) (“Diversity of citizenship as a basis for the jurisdiction of a cause in  
20 the District Court of the United States is not dependent upon the residence of any of  
21 the parties, but upon their citizenship.”).

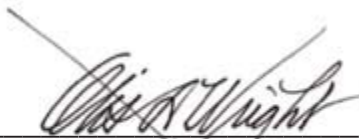
22 In its Notice of Removal, Defendants assert that Mark Boulet is “a resident and  
23 citizen of the State of California.” (Not. of Removal 3.) Defendants cite to Boulet’s  
24 Complaint in support of this assertion. But Boulett merely states that he is a  
25 *resident*—not a citizen—of California. (Compl. ¶ 5.) While a party’s residence may  
26 be prima facie evidence of that party’s domicile when an action is brought in federal  
27 court in the first instance, *see State Farm Mut. Auto. Ins. v. Dyer*, 19 F.3d 514, 520  
28 (10th Cir. 1994), mere residence allegations are insufficient to establish citizenship on

1 removal in light of the strong presumption against removal jurisdiction. *See Kanter,*  
2 265 F.3d at 857; *Gaus*, 980 F.2d at 567.

3 And Defendants do not cite to additional objective facts to establish that Boulet  
4 is a California citizen, such as “voting registration and voting practices, location of  
5 personal and real property, location of brokerage and bank accounts, location of  
6 spouse and family, membership in unions and other organizations, place of  
7 employment or business, driver’s license and automobile registration, and payment of  
8 taxes.” *Lew v. Moss*, 797 F.2d 747, 750 (9th Cir. 1986). The Court therefore finds  
9 that Defendants have not established that this Court has diversity jurisdiction over this  
10 case. Accordingly, the Court *sua sponte* **REMANDS** this case to Superior Court of  
11 California, Los Angeles County, 111 North Hill Street, Los Angeles, California  
12 900121, case number BC541966. *See* Fed. R. Civ. P. 12(h)(3) (“If the court  
13 determines at any time that it lacks subject-matter jurisdiction, the court must dismiss  
14 the action.”). The Clerk of Court shall close this case.

15 **IT IS SO ORDERED.**

16  
17 June 5, 2014

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20 **OTIS D. WRIGHT, II**  
21 **UNITED STATES DISTRICT JUDGE**

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28 cc: order, docket, remand letter to  
Los Angeles Superior Court, No. BC 541966