

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**MEMORANDUM**

JS 6

Case No. CV 15-1507 DSF (VBKx)

Date 4/6/15

Title Massoud Pouratian, et al. v. Travelers Commercial Ins., et al.

Present: The  
Honorable

DALE S. FISCHER, United States District Judge

Debra Plato

Not Present

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

**Proceedings:** (In Chambers) Order REMANDING Case to State Court

This case was removed from state court based on diversity jurisdiction. The complaint, on its face, did not present diversity jurisdiction until the state court granted summary judgment in favor of Defendant Team 5 Services, Inc., dba Puroclean (“Puroclean”). The removing Defendant, Travelers Property Casualty Insurance Company, does not appear to contest that this was an involuntary dismissal of Puroclean and cannot provide the basis for diversity jurisdiction removal. See also Self v. Gen. Motors Corp., 588 F.2d 655 (9th Cir. 1978). Travelers instead argues that Puroclean was always fraudulently joined. This argument fails for two reasons. First, Travelers has not established that Puroclean was fraudulently joined. The response to the OSC merely recites why the state court granted Puroclean’s motion for summary judgment and fails to establish that the failure of the claims against Puroclean was obvious under settled California law. Second, even if Puroclean had been fraudulently joined, such fraudulent joinder, virtually by definition, would have been apparent on the face of the complaint. Removal occurred well beyond 30 days after service of the complaint on Travelers. While this is a procedural flaw in the removal, it is clear from Plaintiffs’ opposition to Travelers’s response to the OSC that Plaintiffs do not acquiesce in the removal and would like the case to be remanded. Further, Travelers’s current position on fraudulent joinder is directly counter to its position in the notice of removal – the notice of removal explicitly states that Travelers had no notice that the case was removable until Puroclean’s motion for summary judgment was granted. (Notice of Removal ¶ 4.)

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The case is REMANDED to the Superior Court of California, County of Los Angeles.

IT IS SO ORDERED.