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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ROBERT SHERFEY, an individual,)	CASE NO. 2:14-cv-2006-R
)	
Plaintiff,)	
)	ORDER DENYING PLAINTIFF ROBERT
v.)	SHERFEY’S MOTION TO REMAND
)	ACTION TO STATE COURT
LOWE’S HIW, INC. a Corporation;)	
DAVE JENKINS, Individual; DOES 1-10,)	
business entit(ies), forms unknown;)	
DOES 11-20, individual(s); and Does 21-30,)	
inclusive)	
)	
Defendants.)	
)	
)	
)	

Before the Court is Plaintiff Robert Sherfey’s Motion to Remand Action to State Court. Finding the matter suitable for decision on the papers, the Court took it under submission on November 24, 2014.

Generally, the presence of a non-diverse party automatically destroys subject-matter jurisdiction. *Wisconsin Dept. of Corrections v. Schacht*, 524 U.S. 381, 389 (1998). However, if the plaintiff fails to state a cause of action against a resident defendant, and the failure is obvious according to the settled rules of the state, the joinder of the resident defendant is fraudulent and

1 should be disregarded for purposes of subject-matter jurisdiction. *McCabe v. General Foods*
2 *Corp.*, 811 F.2d 1336, 1339 (9th Cir. 1987).

3 Here, the claims against the non-diverse defendant, Dave Jenkins, have been dismissed
4 with prejudice. Accordingly, Plaintiff has obviously failed to state a claim against Defendant
5 Jenkins according to the settled rules of California, and the citizenship of Defendant Jenkins is
6 disregarded. Because the remaining parties are diverse, the Court has subject-matter jurisdiction
7 over the present case.

8 IT IS HEREBY ORDERED that Plaintiff Sherfey's Motion to Remand Action to State
9 Court is DENIED. (Dkt. No. 15.)

10 Dated: December 4, 2014.



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14 MANUEL L. REAL
15 UNITED STATES DISTRICT JUDGE
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