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IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

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|-----------------------------|---|------------------------------|
| RODNEY SCHULTZ AND PATRICIA |) | No. CV-F-08-526 OWW/SMS |
| SCHULTZ, |) | |
| |) | MEMORANDUM DECISION GRANTING |
| |) | DEFENDANTS' MOTION FOR |
| Plaintiffs, |) | JUDGMENT ON THE PLEADINGS OR |
| |) | FOR SUMMARY JUDGMENT ON |
| vs. |) | FEDERAL CLAIMS FOR WANT OF |
| |) | SUBJECT MATTER JURISDICTION |
| |) | AND FOR DISMISSAL OF STATE |
| SAKAYE ICHIMOTO, et al., |) | LAW CLAIMS (Doc. 142) AND |
| |) | VACATING ORAL ARGUMENT SET |
| |) | FOR MARCH 22, 2010 |
| Defendants. |) | |
| |) | |
| |) | |

Defendants George A. Wolfe and Frances E. Wolfe have filed a motion for judgment on the pleadings or for summary judgment that Plaintiffs' First Claim for Relief for cost recovery under CERCLA § 107, the Third Claim for Relief for declaratory relief under CERCLA § 113, and Fourth Claim for Relief for contribution under California Health & Safety Code § 25363(e) on the ground that Plaintiffs failed to comply with the statutory 60-day pre-litigation notice requirements under both federal and state law,

1 which notices are mandated in order to confer subject matter
2 jurisdiction on this Court over their citizen suit.¹ Defendants
3 also request that the state law claims for equitable
4 indemnity/contribution, continuing nuisance, negligence,
5 trespass, products liability, declaratory relief, and injunctive
6 relief be dismissed pursuant to 28 U.S.C. § 1367(c) (3).²
7 Defendants Wolfe's motion is joined by Defendants Margaret
8 Jamison, William O. Jamison, Cinda A. Jamison, Sakaye Ichimoto,
9 individually and as Trustee of the Ichimoto Trust Agreement dated
10 September 22, 1988, and Vic Manufacturing Company.

11 Joinders or timely oppositions to the motion have not been
12 filed by Defendants Estate of George T. Ichimoto; Walter Colburn
13 Tuttle, individually and as Trustee under the Walter Colburn
14 Tuttle and June Hadley Tuttle Revocable Living Trust Agreement
15 dated April 22, 1981; Estate of Mary J. Tuttle aka June Hadley
16 Tuttle, deceased; Drew A. Ratzloff and Cindy Ratzloff,
17 individually and as Trustees of the Ratzloff Family Trust; Jewel
18 Donathan; Clarence Soltau; Edeltrude Soltau; Anthony Alves,
19 individually and dba Alves and Williams Enterprises, Devere
20 Williams dba Alves and Williams Enterprises; Juanita Price;
21 Technichem, Inc.; M.B.L., Inc.; and Hoffman/New Yorker, Inc. dba

23 ¹The Second Claim for Relief for contribution under CERCLA §
24 113, was dismissed with prejudice by Order filed on September 16,
2009 (Doc. 138).

25 ²28 U.S.C. § 1367(c) (3) provides that the district court may
26 decline to exercise supplemental jurisdiction if "the district
court has dismissed all claims over which it has original
jurisdiction."

1 NJHNY, Inc.³

2 Plaintiffs have filed a Statement of Non-Opposition to
3 dismissal of the First, Third and Fourth Claims for Relief for
4 want of subject matter jurisdiction. Plaintiffs also do not
5 oppose to the dismissal of the state law claims pursuant to
6 Section 1367(c)(3). This case is at an early stage, there is no
7 federal interest in purely local claims, and the state courts are
8 better equipped to deal with matter of state law. See
9 *Imagineering, Inc. v. Kiewit Pac. Co.*, 976 F.2d 1303, 1309 (9th
10 Cir.1992), *cert. denied*, 507 U.S. 1004 (1993).

11 Accordingly:

12 1. Defendants' Motion for Judgment on the Pleadings or For
13 Summary Judgment on Federal Claims for Want of Subject Matter
14 Jurisdiction and For Dismissal of State Law Claims is GRANTED;

15 2. Oral Argument set for March 22, 2010 is VACATED;

16 3. Counsel for Defendants George A. Wolfe and Frances E.
17 Wolfe shall prepare and lodge a form of order and judgment,

18
19 ³Defendants Anthony Alves, Estate of Mary J. Tuttle, Clarence
20 Soltau, Edeltrude Soltau, Hoffman/New Yorker, Inc. dba NJHNY, Inc.,
and Jewel Donathan have not filed an Answer to the Complaint.

21 Jamison & Chappel, counsel for Defendants Drew A. Ratzloff,
22 Cindy Ratzloff, Drew A. Ratzloff and Cindy Ratzloff as Trustees of
the Ratzloff Family Trust, moved to withdraw as counsel of record.
23 By Order filed on April 8, 2009, counsel's withdrawal became
effective upon the filing of a Notice of Withdrawal setting forth
the current or last known address and telephone number for these
defendants. No Notice of Withdrawal has been filed.

24 Defendant Technichem, Inc. appeared by through its Chairman,
25 Mark J. Ng. By Order filed on October 22, 2009, Technichem, Inc.
was ordered to a file a notice of appearance by its attorney within
26 30 days. No notice of appearance by counsel on behalf of
Technichem, Inc. has been filed.

1 including dismissal of all counter-claims and cross claims,
2 consistent with this Memorandum Decision within five (5) court
3 days following service of this Memorandum Decision.

4 IT IS SO ORDERED.

5 Dated: March 10, 2010

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE

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