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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
10 FRESNO DIVISION

11 DENNIS J. NASRAWI, MICHAEL R.
O'NEAL, and RHONDA BIESEMEIR,

12 Plaintiff,

13 v.

14 BUCK CONSULTANTS, LLC and HAROLD
15 LOEB,

16 Defendants.
17

Case No. 1:09-cv-02061-OWW-GSA

ORDER DENYING PLAINTIFFS'
MOTION FOR REMAND (Doc. 17) AND
DENYING DEFENDANTS' MOTION
TO STRIKE PLAINTIFFS' REPLY (Doc.
29)

18 The motion of Plaintiffs Dennis J. Nasrawi, Michael R. O'Neal, and Rhonda Biesemeir
19 (collectively "Plaintiffs") to remand the action to state court (docket # 17), and the motion of
20 Defendants Buck Consultants, LLC ("Buck") and Harold Loeb ("Loeb") (collectively "Defendants")
21 to strike Plaintiffs' untimely remand reply brief came on regularly for hearing on May 10, 2010 in
22 Department 3 of this Court, the Honorable Oliver W. Wanger presiding. Michael A. Conger, Esq.,
23 of the Law Office of Michael A. Conger appeared on behalf of Plaintiffs. Michael N. Westheimer,
24 Esq., of Baker & McKenzie LLP appeared on behalf of Defendants.

25 After considering the parties' papers and all the matters in the Court's record, and having
26 heard oral argument from the parties, the Court issued a Memorandum Decision Re: Plaintiffs'
27 Motion for Remand (Doc. 17) and Defendants' Motion to Strike Plaintiffs' Reply (Doc. 34)
28 ("Memorandum Decision") on May 12, 2010 (docket # 34), setting forth the Court's rulings on

1 both motions and the basis for the Court's rulings. In accordance with the Memorandum Decision,
2 and good cause appearing, the Court determines as follows:

3 (1) The Court finds that Defendants have met their burden of establishing that Loeb is a
4 "sham defendant" whose presence in the action does not bar removal and exists for the purpose of
5 defeating diversity jurisdiction. The Court finds that Defendants have met their burden of
6 establishing that complete diversity of citizenship exists as between Plaintiffs and Buck, the amount
7 in controversy exceeds \$75,000, and the action was timely removed to this Court. The Court has
8 diversity jurisdiction of this action. Plaintiffs' motion for remand (docket # 17) is DENIED.

9 (2) The issue of Plaintiffs' untimely filing of their remand reply brief was resolved
10 during oral argument on May 10, 2010. Defendants' motion to strike Plaintiffs' reply (docket # 29)
11 is DENIED.

12 IT IS SO ORDERED.

13 Dated: May 27, 2010

14 /s/ Oliver W. Wanger
15 UNITED STATES DISTRICT JUDGE