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

XIAO-MEI JIN, on behalf of herself )  
and all others similarly situated, )  
Plaintiff, )  
v. )  
BEN BRIDGE-JEWELER, INC., a )  
Washington Corporation, )  
Defendant. )

2:07-cv-1587-GEB-KJN  
ORDER

Subject matter jurisdiction is raised *sua sponte* since Defendant removed this case based on diversity jurisdiction under the Class Action Fairness Act ("CAFA"), which is no longer a basis for removal jurisdiction; Plaintiff's motion for class certification was denied in an Order issued February 2, 2009. See Arabian v. Sony Elecs. Inc., No. 05cv1741, 2007 WL 2701340, at \*3 (S.D. Cal. Sept. 13, 2007) ("[F]ollowing denial of class certification, no subject matter jurisdiction exist[s] under CAFA . . . ." (citing McGaughey v. Treistman, No. 05cv7069, 2007 WL 24935, at \*3-4 (S.D.N.Y. Jan. 4,

1 2007)); Salazar v. Avis Budget Group, Inc., No. 07-cv-0064, 2008 WL  
2 5054108, at \*5 (S.D. Cal. Nov. 20, 2008) ("When this Court denied  
3 class certification, it determined there is not - and never was - CAFA  
4 diversity jurisdiction."); McGaughey, 2007 WL 24935, at \*3 ("Because  
5 Plaintiff's motion for class certification must be denied, Plaintiff's  
6 action is no longer a class action, and this Court cannot retain  
7 subject matter jurisdiction in diversity over Plaintiff's action  
8 pursuant to the Class Action Fairness Act.").

9 Defendant nevertheless contends in a joint status report  
10 filed March 30, 2009 ("JSR"), that diversity jurisdiction exists under  
11 28 U.S.C. § 1332(a) since the parties are citizens of different states  
12 and the amount in controversy exceeds \$75,000. (JSR at 3:14-15.)  
13 Plaintiff rejoins she "reserves the right to challenge the defendant's  
14 claims respecting this Court's diversity jurisdiction in the event  
15 that discovery calls the factual bases of such jurisdiction into  
16 question." (Id.)

17 Jurisdiction under § 1332(a) was not stated as a basis for  
18 removal in Defendant's removal petition, and the Complaint does not  
19 clearly state what amount of damages Plaintiff seeks. Defendant's  
20 mere conclusory allegation that the amount in controversy exceeds  
21 \$75,000 is insufficient to "overcome[] the 'strong presumption against  
22 removal jurisdiction . . . .'" Gaus v. Miles, Inc., 980 F.2d 564, 567  
23 (9th Cir. 1997) (citing Garza v. Bettcher Indus., Inc., 752 F. Supp.  
24 753, 763 (E.D. Mich. 1990), and its holding that "defendant's bald  
25 recitation that 'the amount in controversy exceeds \$50,000,' without  
26 the defendant identifying any specific factual allegations or  
27 provisions in the complaint which might support that proposition,  
28 should provoke *sua sponte* remand"). Therefore, this case is remanded

1 to the Superior Court of the State of California, for the County of  
2 Sacramento.

3 Dated: April 8, 2009

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6 GARLAND E. BURRELL, JR.  
United States District Judge

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