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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARY C. ENGEL,

NO. CIV. S-09-3177 LKK/KJM

Plaintiff,

v.

O R D E R

BLAINE A. LOUSTAUNAU,

Defendant .

_____ /

On November 16, 2009, plaintiff, Mary C. Engel ("plaintiff"), filed a complaint against her brother, defendant Blaine A. Loustanaunau ("defendant"), in federal court. This complaint only brought state law causes of action. Plaintiff contended that federal jurisdiction was proper, however, under 28 U.S.C. § 1332, because, she argued, plaintiff is a citizen of California, defendant is a citizen of Colorado, and plaintiff seeks damages of \$300,000. Defendant challenged whether federal jurisdiction was proper. Specifically, defendant argued that he is not a citizen of Colorado.

1 On May 10, 2010, an evidentiary hearing was held to determine
2 whether defendant is domiciled in a state other than California.
3 As the party seeking diversity jurisdiction, plaintiff bore the
4 burden of proving diversity. Lew v. Moss, 797 F.2d 747, 749 (9th
5 Cir. 1986). The court found that plaintiff did not demonstrate that
6 defendant is domiciled in a state other than California.

7 For the foregoing reasons, the court orders that plaintiff's
8 complaint is DISMISSED, without prejudice, for lack of subject
9 matter jurisdiction.


10 The court further orders that all pending motions are denied,
11 without prejudice, as moot.

12 The clerk of court is instructed to enter judgment in this
13 case.

14 IT IS SO ORDERED.

15 DATED: May 11, 2010.

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LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT