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United States District Court  
For the Northern District of California

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

URIEL SCOTT,  
Plaintiff,  
v.  
TRADEHILL, INC.; JERED KENNA, et al.,  
Defendants.

No. 3:14-cv-03362-CRB

**ORDER GRANTING MOTION TO  
REMAND TO STATE COURT;  
DISMISSING AS MOOT THE MOTION  
TO COMPEL ARBITRATION OR, IN  
THE ALTERNATIVE, TO DISMISS;  
GRANTING PETITION FOR  
ATTORNEYS' FEES; AND VACATING  
HEARING**

The parties having stipulated, and this Court agreeing, that Defendant's notice of removal was improper under 28 U.S.C. § 1441(b)(2) because the Defendant seeking removal is a California resident who was properly served, the Court hereby GRANTS Plaintiff's Motion to Remand this action to California Superior Court for the County of San Francisco for further proceedings under Case No. CGC-14-537293. (Dkt. 9). Defendant Jered Kenna shall provide notice to all parties of this Order and file it with the clerk of the Superior Court within 5 days. With the underlying action remanded to state court, the pending Motion to Compel Arbitration or, in the Alternative, Motion to Dismiss (Dkt. 6) is DISMISSED AS MOOT.


Plaintiff Uriel Scott also moves for just costs and actual expenses incurred in the improper removal. "An order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal." 28 U.S.C.

1 § 1447(c). “Absent unusual circumstances, courts may award attorney’s fees under  
2 § 1447(c) only where the removing party lacked an objectively reasonable basis for seeking  
3 removal.” Martin v. Franklin Capital Corp., 546 U.S. 132, 141 (2005). “Conversely, when  
4 an objectively reasonable basis exists, fees should be denied.” Id. The objective  
5 reasonableness of removal depends on whether applicable law “clearly foreclosed” the  
6 arguments in support of removal. See Lussier v. Dollar Tree Stores, Inc., 518 F.3d 1062,  
7 1066–67 (9th Cir. 2008).

8 No objectively reasonable basis for seeking removal existed here, where it is  
9 undisputed that Defendant Jered Kenna is a citizen of the state in which the action was  
10 brought and therefore disqualified by 28 U.S.C. § 1441(b)(2) from removing the case. Resp.  
11 to Mot. to Remand (Dkt. 24) at 1. Plaintiff’s entitlement to fees here “is not a punitive award  
12 against defendants; it is simply reimbursement to plaintiffs of wholly unnecessary litigation  
13 costs the defendant inflicted.” Moore v. Permanente Medical Group, Inc., 981 F. 2d 443,  
14 447 (9th Cir. 1992). Plaintiff’s counsel asserts that as a result of the improper removal, he  
15 expended three (3) hours drafting, serving, and filing the instant motion. Yi Decl. ¶ 7. The  
16 hearing on this motion currently scheduled for October 10, 2014, being hereby VACATED,  
17 the additional one (1) hour Plaintiff’s counsel expected to spend appearing at the hearing, id.,  
18 will not be necessary. Plaintiff’s counsel’s hourly billing rate is \$295. Id. Both the time  
19 expended and billing rate appearing wholly reasonable, this Court GRANTS Plaintiff’s  
20 petition and ORDERS Defendant Jered Kenna to pay attorneys’ fees and costs to Hedani,  
21 Choy, Spalding & Salvigione Trust Account in the sum of \$885.

22  
23 **IT IS SO ORDERED.**

24  
25 Dated: September 26, 2014

  
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CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE