

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WILLIAM DAVIDSON, et al.,
Plaintiffs,
v.
ALCATEL-LUCENT USA INC., et al.,
Defendants.

Case No. 16-cv-05766-VC

ORDER DENYING STAY

Re: Dkt. No. 26

Assuming the truth of every nonconclusory factual allegation in the defendants' amended notice of removal, and liberally construing the scope of 28 U.S.C. § 1442, the defendants have failed to meet their rudimentary pleading burden for federal officer removal.¹ The defendants' request for a stay is denied.

IT IS SO ORDERED.

Dated: December 9, 2016



VINCE CHHABRIA
United States District Judge

¹ The Court notes that it has jurisdiction to consider the motion to stay only because the order remanding the case is appealable under 28 U.S.C. § 1447(d). *See Supreme Court of California v. Kinney*, No. 3:15-CV-01552-LB, 2015 WL 3833321, at *2 (N.D. Cal. June 19, 2015); *Maui Land & Pineapple Co. v. Occidental Chem. Corp.*, 24 F. Supp. 2d 1083, 1085 (D. Haw. 1998). Ordinarily, "[o]nce a district court certifies a remand order to state court it is divested of jurisdiction and can take no further action on the case." *Seedman v. U.S. Dist. Court for Cent. Dist. of California*, 837 F.2d 413, 414 (9th Cir. 1988).