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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL MATSUNO,  
Plaintiff,  
v.  
HOFFMAN-LA ROCHE, INC., et al.,  
Defendants.

Case No. 19-cv-01333-JD

**ORDER RE REMAND**

Re: Dkt. No. 26

Plaintiff Michael Matsuno is a resident of Los Angeles, California, and a veteran of service in Somalia with the United States military. In the course of his deployment, the military required him to take Lariam, a drug manufactured and marketed by defendants for the prevention of malaria. Matsuno contends that Lariam proved to be a toxic formulation associated with severe psychiatric and neurological outcomes, including suicide, delusions and fits of rage.

Matsuno filed a complaint in California state court alleging claims under California law against defendants. Defendants removed the case to this Court on a claim of diversity jurisdiction under 28 U.S.C. Section 1441. Dkt. No. 1. Matsuno asks for a remand to state court for lack of complete diversity. Dkt. No. 26. The Court concludes that the case was removed improvidently and without jurisdiction, and remands it to the San Mateo County Superior Court pursuant to 28 U.S.C. Section 1447(c).

**DISCUSSION**

Diversity jurisdiction arises when a plaintiff sues a citizen of a different state over an amount in controversy exceeding \$75,000. 28 U.S.C. § 1332(a). An out-of-state defendant may remove to federal court “any civil action brought in a State court of which the district courts of the United States have original jurisdiction.” *Id.* § 1441(a). A plaintiff may move to remand the action to state court if the case was improperly removed because of a lack of subject matter

1 jurisdiction. *Id.* § 1447(c).

2 There is a strong presumption against removal, and the removal statute is strictly construed  
3 against finding federal jurisdiction. *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992).  
4 Principles of federalism, comity, and respect for the state courts also counsel strongly in favor of  
5 scrupulously confining removal jurisdiction to the precise limits that Congress has defined.  
6 *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 109 (1941). The defendant always “bears the  
7 burden of overcoming the ‘strong presumption against removal jurisdiction.’” *Hansen v. Grp.*  
8 *Health Coop.*, 902 F.3d 1051, 1057 (9th Cir. 2018) (quoting *Geographic Expeditions, Inc. v.*  
9 *Estate of Lhotka ex rel. Lhotka*, 599 F.3d 1102, 1107 (9th Cir. 2010)). Any doubt about removal  
10 weighs in favor of remand. *Hawaii ex rel. Louie v. HSBC Bank Nevada, N.A.*, 761 F.3d 1027,  
11 1034 (9th Cir. 2014).

12 The dispositive question for the remand motion is whether any of the properly joined  
13 defendants is a California citizen. The parties do not dispute that the amount in controversy  
14 exceeds the statutory threshold, or that Matsuno resides in Los Angeles and is a California citizen  
15 for diversity purposes. Consequently, if one of the properly joined defendants are citizens of  
16 California, complete diversity is lacking and the case must be remanded for lack of subject matter  
17 jurisdiction. *See* 28 U.S.C. § 1332(a); *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 68 (1996).

18 For diversity and removal purposes, a corporation is a citizen of each State where it is  
19 incorporated as well as the State in which it has its principal place of business. 28 U.S.C.  
20 § 1332(c). As alleged in the complaint, defendant F. Hoffman-La Roche Ltd. (“FHLR”) is a  
21 Swiss corporation that manufactured Lariam. Defendant Hoffmann-La Roche Inc. (“HLR”) is an  
22 affiliated New Jersey corporation that was responsible for labeling and packing Lariam in the  
23 United States. Defendant Roche Laboratories Inc. is another affiliated Delaware corporation that  
24 marketed and sold Lariam to the Department of Defense. Dkt. No. 1-3 ¶¶ 17-18, 47-48. The  
25 complaint also names as defendants Genentech Inc. and Genentech USA, Inc., which were  
26 acquired by Roche Holdings, Inc. in 2009. *Id.* ¶ 19. The Genentech entities are incorporated in  
27 Delaware but maintain their principal place of business in South San Francisco, California. *Id.* ¶¶  
28 19-20.

1           The main jurisdictional dispute is over the citizenship of defendants HLR and Roche  
2 Laboratories. Matsuno alleges that HLR and Roche Laboratories maintain their principal place of  
3 business in South San Francisco, California, and so should be deemed citizens of the state.  
4 Defendants say that these entities are headquartered in Little Falls, New Jersey.

5           Defendants have not carried their burden of establishing that HLR and Roche Laboratories  
6 have a principal place of business outside California. A corporation’s principal place of business  
7 is its “nerve center,” or “the place where a corporation’s officers direct, control, and coordinate the  
8 corporation’s activities.” *Hertz Corp. v. Friend*, 559 U.S. 77, 92-93 (2010). The nerve center is  
9 more than just “where the corporation holds its board meetings (for example, attend by directors  
10 and officers who have traveled there for the occasion)” or “the mere filing of a form like the  
11 Securities and Exchange Commission’s Form 10-K.” *Id.* at 93, 97.

12           Matsuno has proffered substantial evidence establishing that HLR’s “nerve center” was  
13 relocated to South San Francisco following Roche Holding Inc.’s acquisition of Genentech. This  
14 includes a number of external press releases and articles discussing Roche’s relocation of its  
15 commercial headquarters to South San Francisco. *See* Dkt. No. 26-3 (“Roche is moving Jersey  
16 headquarters to Calif.”); Dkt. No. 26-8 (“The Genentech site in California . . . also serves as the  
17 headquarters of Roche Commercial Operations for North America.”); Dkt. No. 26-14 (“South San  
18 Francisco site to become headquarters of combined U.S. commercial operations.”); Dkt. No. 26-22  
19 at 3 (“George Abercrombie, CEO and President of Hoffman-La Roche Inc. . . . will assist . . . with  
20 the transition of the US Commercial Headquarters from Nutley[, New Jersey] to South San  
21 Francisco.”). Internal reports and SEC filings also emphasize Roche’s headquarter relocation,  
22 including a 2008 press release filed with the SEC in which HLR stated that “[w]e will base the  
23 headquarters for the combined Genentech and Roche US pharma business at the Genentech South  
24 San Francisco campus.” Dkt. No. 26-11 at 4; *see also* Dkt. No. 26-4 (“We remain committed to  
25 . . . locating the combined company’s U.S. headquarters at Genentech’s current facility in South  
26 San Francisco.”). Other articles emphasize that Genetech’s Little Falls campus will house  
27 “satellite” offices, including “corporate support employees such as lawyers and procurement  
28 executives.” Dkt. No. 26-6. Additional documents show that HLR and Roche Laboratories’ CEO,

1 Sean A. Johnston, maintains his primary business address in South San Francisco. Dkt. Nos. 26-  
2 25, 26-26.

3 HLR and Roche Labs do not meaningfully dispute this evidence. HLR puts substantial  
4 stock on a declaration by Gerald Bohm, HLR's Assistant Secretary, for the proposition that HLR's  
5 primary activities and decisions were "made out of Little Falls, New Jersey." Dkt. No. 28-7 ¶ 11.  
6 The problem with the Bohm declaration is that it is wholly conclusory and fails to provide facts  
7 that might establish that HLR's principal place of business is in Little Falls. For example, Bohm  
8 states that HLR's "primary business activity is the licensing of its U.S. patents," which is "directed  
9 from New Jersey." *Id.* ¶ 6. But Bohm does not provide any information to back that up, or  
10 otherwise address the evidence tendered by Matsuno. And while it may be true that HLR's annual  
11 board of directors meeting takes place "by unanimous written consent, which are prepared in Little  
12 Falls," and that "the corporate minutes books" are "housed in Little Falls," *id.* ¶¶ 13-14, the  
13 Supreme Court has held that a nerve center is "not simply an office where the corporation holds its  
14 board meetings," *Hertz*, 559 U.S. at 93, let alone where such meeting agendas and minutes are  
15 "prepared" or "housed."

16 It is also worth noting that Bohm is far from clear about the manner in which the board of  
17 directors and HLR's officers manage and direct the corporation. He says only, again in  
18 conclusory fashion, that five of HLR's "acting officers sit and perform their job functions from  
19 Little Falls." Dkt. No. 28-7 ¶ 16. Bohm also does not dispute that HLR's CEO Johnston is based  
20 in South San Francisco, and offers only the tangential comment that Johnston "holds director  
21 and/or officer positions for other entities as well," including on Genentech, Inc.'s board of  
22 directors. *Id.* ¶ 18.

23 This is not the first time that the California citizenship of HLR and Roche Laboratories has  
24 been found. Two prior cases in this district had no trouble in concluding on similar records that  
25 HLR "failed to rebut evidence presented by Plaintiffs indicating that HLR's 'nerve center' is  
26 located in California rather than New Jersey." *Sheets v. F. Hoffmann-La Roche Ltd.*, No. 18-CV-  
27 04565-JST, 2018 WL 6428460 at \*2 (N.D. Cal. Dec. 7, 2018); *see also Pool v. F. Hoffman-La*  
28 *Roche, Ltd.*, 386 F. Supp. 3d 1202, 1221 (N.D. Cal. 2019). Defendants have not adduced a good

