



1 claims against each of the Defendants, who in turn reached partial settlement with many of the  
2 cross-defendants.<sup>2</sup> PFS and Molinaro thereafter filed the instant motion to remand. No  
3 opposition was filed.

## 4 II. DISCUSSION

5 In light of the apparent disposition of Plaintiff’s claims against Defendants, Movants  
6 argue that this Court lacks proper subject matter jurisdiction because there is no diversity of  
7 citizenship among the remaining parties. Remand is the process by which a federal court returns  
8 a case to the state court from which it was removed. *See* 28 U.S.C. § 1447 (providing for the  
9 procedure after removal “[i]n any case removed from a State court”); *see e.g., Price v. PSA, Inc.*,  
10 829 F.2d 871, 876 (9th Cir. 1987) (“the rule in this circuit is that the district court has discretion  
11 to remand the rest of the action to the state court from which it is removed”). A district court  
12 may not remand a case to state court when the case was not filed there in the first place, and a  
13 district court may transfer a civil action only to another “district or division where it might have  
14 been brought.” 28 U.S.C. § 1404(a) (transfers “[f]or the convenience of parties and witnesses”).  
15 This provision does not permit transfer from a federal court to a state court. *Pope v. Atlantic*  
16 *Coast Line R. Co.*, 345 U.S. 379, 384 (1953).

17 Because Plaintiff filed its original complaint in this Court, the instant case cannot be  
18 remanded or transferred to the state court. If Movants wish to assert a challenge to this Court’s  
19 subject matter jurisdiction, they may seek dismissal pursuant to Rule 12(b)(1) of the Federal  
20 Rules of Civil Procedure. The Court notes, however, that “[t]he general rule in diversity cases is  
21 that if the jurisdictional requisites are present when the action begins, subsequent events will not  
22 ordinarily defeat the district court’s jurisdiction.” *Hill v. Roller*, 615 F.2d 886, 889 (9th Cir.  
23 1980) (third-party claim survived settlement of the main action upon which diversity jurisdiction  
24 depended).

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28 <sup>2</sup>The status of the settlement agreements is uncertain.

1 **III. CONCLUSION**

2 Good cause therefor appearing, IT IS HEREBY ORDERED that the motion to remand is  
3 DENIED.

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6 DATED: September 30, 2008

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8 JEREMY FOGEL  
9 United States District Judge  
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