

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

BRADLEY KAVA,
Plaintiff,
v.
SAN JOSE MERCURY NEWS, INC.,
Defendant.

Case No.: C 08-5556 PVT

ORDER DIRECTING CLERK OF THE COURT TO REASSIGN THE CASE TO A DISTRICT JUDGE AND VACATING HEARING

On January 9, 2009, Plaintiff filed a Motion to Remand Action to State Court.¹ On February 13, 2009, this court issued an order setting a deadline of February 17, 2009, for the parties to each file either a “Consent to Proceed Before a United States Magistrate Judge,” or else a “Declination to Proceed Before a United States Magistrate Judge and Request for Reassignment.” Defendant failed to file either document. Therefore, based on the file herein,

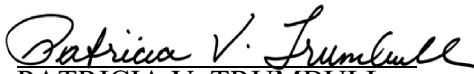
IT IS HEREBY ORDERED that the clerk of the court shall reassign this case to a District Judge. As the court noted in its last order, while it does not appear to be settled law in the Ninth Circuit, other circuits have ruled that motions to remand are “dispositive” motions that may only be heard by Magistrate Judges with consent of all parties. *See, e.g., Williams v. Beemiller, 527 F.3d 259, 265-66 (2d Cir. 2008)* and cases cited therein (holding that motions to remand are “dispositive”

¹ The holding of this court is limited to the facts and the particular circumstances underlying the present motion.

1 matters for purposes of determining the scope of a Magistrate Judge's authority under 28 U.S.C.
2 section 636). Because Defendant has not consented to Magistrate Judge jurisdiction, the case must
3 be reassigned to a District Judge.

4 IT IS FURTHER ORDERED that the hearing on Plaintiff's motion to remand is VACATED.
5 The Plaintiff shall re-notice his motion on the calendar of the District Judge to whom this case is
6 reassigned.

7 Dated: 2/18/09

8 
9 PATRICIA V. TRUMBULL
United States Magistrate Judge

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28