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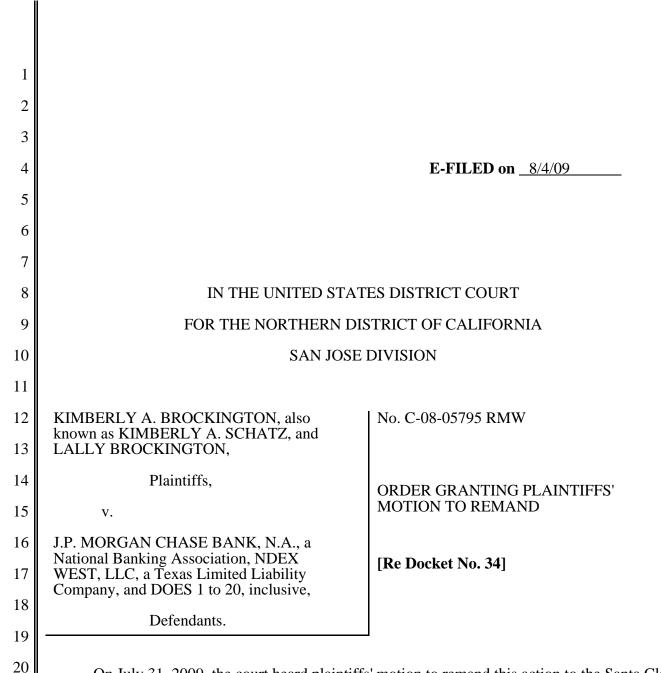
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On July 31, 2009, the court heard plaintiffs' motion to remand this action to the Santa Clara County Superior Court. Defendant J.P. Morgan Chase Bank N.A. opposes the motion. Having considered the papers submitted by the parties and the arguments of counsel, and for good cause appearing, the court grants plaintiffs' motion to remand.

Plaintiffs' first amended complaint abandoned all federal causes of action and plaintiff therefor sought an order remanding the action to Superior Court. In the parties' initial briefing, neither side addressed whether the court had diversity jurisdiction over this action and the court directed the parties to file supplemental briefs. Thereafter, plaintiffs filed their second amended complaint which added a non-diverse party.

ORDER GRANTING PLAINTIFFS' MOTION TO REMAND—No. C-08-05795 RMW TER

Accordingly, the under the present operative pleading, there is no federal question presented and the parties are not diverse. While it appears that the new defendants were added in large part for the purpose of defeating diversity jurisdiction, it also appears that plaintiff may have viable claims against them arising out of the same transaction, facts and circumstances.

The action was properly removed by defendants based on the federal question thenpresented by the pleadings. Thus, the court has the discretion to exercise its supplemental
jurisdiction to hear the remaining state law claims, even though the complaint, as presently
framed, could not have been brought in federal court. The court also has discretion, however, to
decline to exercise its supplemental jurisdiction to hear such claims. 28 U.S.C. §1367(c)(3);
Williams v. Costco Wholesale Corp., 471 F.3d 975, 977 (9th Cir. 2006). This case is still in its
early stages, the pleadings are not yet closed, and the claims to be litigated are all state law claims.
Accordingly, the court will exercise its discretion and remand this action to the Santa Clara
County Superior Court.

IT IS HEREBY ORDERED that this action is remanded to the Superior Court for the State of California, County of Santa Clara.

The clerk is directed to close the file.

DATED: 8/4/09

RONALD M. WHYTE
United States District Judge

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