

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

COUNTY OF SANTA CLARA, et al.,
Plaintiffs,
v.
KE "JASON" WANG, et al.,
Defendants.

Case No. [5:20-cv-05823-EJD](#)

**ORDER DENYING MOTION FOR
LEAVE TO FILE MOTION FOR
RECONSIDERATION**

Re: Dkt. No. 33

On September 1, 2020, the Court issued an order remanding this case sua sponte. Dkt. No. 31 ("Remand Order"). In that Remand Order, the Court found that the State of California was the real party in interest to this suit and that a state cannot be a party to a diversity action. *Id.* at 4. Because no diversity jurisdiction existed and no other basis for removal was put forth, the Court found it appropriate to remand sua sponte. *Ibid*; see 28 U.S.C.A. § 1447 ("If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded"). On September 3, 2020, Defendants filed a Motion for Leave to File a Motion for Reconsideration of the Remand Order. Dkt. No. 33 ("Motion").

Federal law provides that "[a]n order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise," with two exceptions that are not relevant here. 28 U.S.C. § 1447(d). The Ninth Circuit has held that "[t]his language has been universally construed to preclude not only appellate review but also reconsideration by the district court. Once 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); see also *Musumeci v. Musumeci*, No. 5:20-CV-00454-EJD, 2020


Case No.: [5:20-cv-05823-EJD](#)
ORDER DENYING MOTION FOR LEAVE TO FILE MOTION FOR RECONSIDERATION

1 WL 1139659, at *1 (N.D. Cal. Mar. 9, 2020).

2 This court lacks jurisdiction to reconsider its Remand Order. Respondent's motion for
3 leave to file motion for reconsideration is **DENIED**. The clerk shall serve a copy of this order on
4 Respondent and shall transmit this order to the Santa Clara County Superior Court.

5 **IT IS SO ORDERED.**

6 Dated: September 8, 2020



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8 EDWARD J. DAVILA
United States District Judge

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