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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Ford Motor Credit Company, et al.	
Plaintiffs,	
vs.	
RA Lake, Inc., et al.,	
Defendants.	

CASE NO. 12cv1431-GPC-JMA
**ORDER GRANTING
MOTION TO REMAND**
[DKT. NO. 12]

This case becomes before the Court on Plaintiffs' motion to remand. (Dkt. No. 12.) For the reasons set out below, the Court **GRANTS** Plaintiffs' motion to remand. The Court therefore **REMANDS** this action to San Diego County Superior Court.

BACKGROUND

On May 24, 2012 Ford Credit filed this breach of contract case in the Superior Court of San Diego (Dkt. 1, Ex. A, "Complaint.") Ford Credit is a corporation authorized and licensed to conduct business in the State of California. (Complaint at ¶ 1.) Ford Credit alleges that RA Lake, Inc. is a California corporation and Defendants Steven Lucore, Judy Lucore, Rick Hinrichsen and George Valverde are individuals residing in the state of California. (Complaint at ¶¶ 2-4.) Ford Credit alleges that defendants entered into a contract for a vehicle owned by plaintiffs, and defendants have failed to make installment payments on the vehicle. (Complaint at ¶¶ 12-15.) Ford Credit alleges defendants default under the

1 terms and conditions of the agreement constitute a breach of contract. (Complaint at
2 ¶¶ 16-17.) Defendants have allegedly refused to surrender possession of the vehicle
3 in question, and Ford Credit seeks payment on the remaining unpaid balance of
4 \$62,179.63 on the contract. (Complaint at ¶¶ 22-23.) Ford Credit alleges the
5 following state law causes of action: possession of personal property and breach of
6 contract; goods sold and delivered; book account; and account stated. (Complaint
7 at 4-11.) Ford Credit seeks to quiet title and injunctive relief. (Complaint at 11-13.)

8 On June 13, 2012, Defendants Steven Lucore and Judy Lucore removed the
9 action to this court based on diversity jurisdiction. (Dkt. No. 1.)

10 On February 12, 2013, this Court set a hearing for dismissal for want of
11 prosecution pursuant to Local Civil Rule 41.1. (Dkt. No. 5.)

12 On March 11, 2013, Plaintiffs filed a notification of bankruptcy and effect of
13 automatic stay. (Dkt. No. 10.) The court thereby vacated the dismissal hearing and
14 issued a stay. (Dkt. No. 11.)

15 On June 4, 2013, Ford Credit filed a notice of termination of automatic
16 bankruptcy stay. (Dkt. No. 13.) Ford Credit also filed a motion to remand the case
17 to the Superior Court of San Diego. (Dkt. No. 12.) Defendants have failed to file an
18 opposition.

19 DISCUSSION

20 Ford Credit seeks to remand this case to state court based on Defendants
21 improper removal. (Dkt. No. 12.)

22 A federal court has jurisdiction over an action involving citizens of different
23 states when the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332. The
24 notice of removal must be filed “within thirty days after receipt by the defendant,
25 through service or otherwise, of a copy of the initial pleading . . .” 28 U.S.C. §
26 1446(b). The burden of establishing federal jurisdiction is on the party seeking
27 removal, and the removal statute is strictly construed against removal jurisdiction.”
28 Nishimoto v. Federman-Bachrach & Assoc., 903 F.2d 709, 712 n.3 (9th Cir. 1990).

1 “Federal jurisdiction must be rejected if there is any doubt as to the right of removal
2 in the first instance.” Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992).
3 Whether federal jurisdiction exists is governed by the well-pleaded complaint rule.
4 Caterpillar, Inc. v. Williams, 482 U.S. 386, 392, (1987). The well-pleaded complaint
5 rule is a “powerful doctrine [that] severely limits the number of cases in which state
6 law ‘creates the cause of action’ that may be initiated in or removed to federal
7 district court” Franchise Tax Board of Cal. v. Construction Laborers
8 Vacation Trust for Southern Cal., 463 U.S. 1, 9-10 (1983).

9 Here, Defendants Steve Lucore, Sr. and Judy Lucore removed the action
10 based on diversity jurisdiction and assert the amount in controversy exceeds
11 \$75,000. (Dkt. No. 1 at 2.) To support diversity of citizenship, Defendants state that
12 Ford Credit is a corporation organized under the laws of Delaware, with its
13 principal place of business in Michigan, and all Defendants are citizens or
14 businesses in the state of California. (Dkt. No. 1 at 3.) Although Plaintiffs’
15 complaint does not include the state of organization, Plaintiffs state Ford Credit is a
16 corporation authorized and licensed to conduct business in the state of California.
17 (Complaint at 1.)

18 Plaintiffs argue that Defendants have improperly removed this action because
19 they are citizens of the state of California. The Court agrees. Under 28 U.S.C.A. §
20 1441, “A civil action otherwise removable solely on the basis of the jurisdiction
21 under section 1332(a) of this title[“Diversity of Citizenship”] may not be removed if
22 any of the parties in interest properly joined and served as defendants is a citizen of
23 the State in which such action is brought.” 28 U.S.C.A. § 1441 (a)(2) (West).
24 Defendants are admittedly citizens of the state of California. (Dkt. No. 1 at 2.)
25 Pursuant to 28 U.S.C. 1441 (a)(2), Defendants may not seek removal of this action
26 based on diversity of citizenship.

27 Moreover, diversity of citizenship cannot serve as a sufficient jurisdictional
28 base where it appears from the face of the complaint that complete diversity of

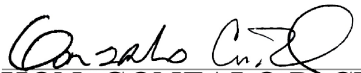
1 citizenship does not exist. See Kizer v. Fin. Am. Credit Corp., 454 F. Supp. 937,
2 938 (N.D. Miss. 1978). From the face of Plaintiffs' complaint, all parties are
3 businesses or citizens in the state of California. (Complaint at 1-2.) Defendants do
4 not offer any information or evidence to the contrary. As such, Defendants have not
5 met their burden to establish that federal jurisdiction is proper. See Nishimoto, 903
6 F.2d at 712. Accordingly, the Court hereby **GRANTS** Plaintiffs' motion to remand.

7 **CONCLUSION**

8 The Court hereby **GRANTS** Plaintiffs' motion and hereby **REMANDS** this
9 action to San Diego County Superior Court.

10 **IT IS SO ORDERED.**

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12 DATED: October 15, 2013

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14 HON. GONZALO P. CURIEL
15 United States District Judge
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