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

MICHAEL BOMBERGER,

vs.
THEO HANSON, et al.,

Plaintiff,

Defendant.

CASE NO. 14cv357-LAB (RBB)
ORDER OF REMAND

Defendant Theo Hanson, proceeding *pro se*, removed this case from the Superior Court of California for the County of San Diego, citing diversity jurisdiction. The claims arise from state law only.

The notice of removal alleges that Bomberger is a California citizen, that Hanson was a California citizen at the time the complaint was filed but has since become an Illinois citizen, and that the other Defendant,¹ Heartland Coalition, Inc., is a California corporation. Heartland has appeared as a party in state court but did not join in the notice of removal, in violation of 28 U.S.C.A. § 1446(b)(2)(A). But that is not the most serious problem.

The pleadings establish conclusively that the parties are not diverse. Although Hanson alleges he is an Illinois citizen for purposes of diversity jurisdiction, this legal

¹ The caption indicates that Heartland is a Cross-plaintiff and Bomberger a Cross-defendant. Tnotice of removal alleges that Heartland also filed a cross-complaint against Hanson, but never served it on Hanson. The cross-complaint is not attached to the notice. But it is clear Heartland has appeared and is actively litigating.

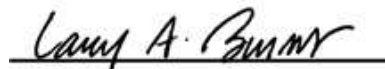
1 conclusion is unwarranted, because citizenship for diversity purposes is determined as of
2 the date the case is filed in state court. See *Grupo Dataflux v. Atlas Global Group, L.P.*, 541
3 U.S. 567, 569–71 (2004) (noting long-standing rule that, for purposes of diversity jurisdiction,
4 citizenship is determined as of the time of filing). See also *Fed'l Ins. Co. v. Brasscraft Mfg.*
5 *Co.*, 2014 WL 545786, *3 n.14 (C.D.Cal., Feb. 10, 2014) (diversity jurisdiction in removed
6 case was determined with regard to plaintiff's citizenship at the time the suit was filed in state
7 court). Because Hanson was a California citizen at the time the suit was filed, he is not
8 diverse from the other California parties.

9 But more than this, because Heartland is a California corporation, it is a California
10 citizen for purposes of diversity jurisdiction. See 28 U.S.C. § 1332(c)(1) (providing that a
11 corporation is a citizenship of the states in which it is incorporated and has its principal place
12 of business). Because Heartland and Bomberger are both California citizens, complete
13 diversity is lacking. See *Lincoln Property Co. v. Roche*, 546 U.S. 81, 89 (2005) (holding that
14 diversity jurisdiction requires complete diversity between all plaintiffs and all defendants).

15 Because jurisdiction is lacking, this action is **REMANDED** to the Superior Court of
16 California for the County of San Diego.

17 **IT IS SO ORDERED.**

18 DATED: February 20, 2014

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20 **HONORABLE LARRY ALAN BURNS**
21 United States District Judge

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