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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 ELISABETH JACOBY; GLENN  
12 JACOBY; REBECCA JANE JACKSON;  
13 RUBY WAGONER; ELRA GUERIN;  
14 DEBORAH TRABER; NORA  
ROMERO; DARL BARBALACCI,

Plaintiffs,

15 v.

16 PFIZER INC.; GREENSTONE LLC;  
17 McKESSON CORPORATION,

18 Defendants.  
19

Case No.: 3:16-cv-00471-BEN-JLB

**ORDER REQUESTING BRIEFING  
ON EXISTENCE OF FEDERAL  
JURISDICTION AND PROPER  
VENUE**

20 Plaintiffs filed this action in state court. Defendants Pfizer Inc. and Greenstone  
21 LLC removed the case to this Court, asserting (1) diversity jurisdiction and (2) federal  
22 jurisdiction under the Class Action Fairness Act’s (“CAFA”) “mass action” provision.  
23 The parties never litigated in this Court whether removal was proper because, upon  
24 removal, the case was transferred to a multidistrict litigation (“MDL”) proceeding in the  
25 District of South Carolina (the “MDL court”).

26 Almost a year after removal, in February 2017, the United States Judicial Panel on  
27 Multidistrict Litigation remanded the case because the MDL court lacked jurisdiction.  
28 The MDL court found that diversity jurisdiction did not exist “and that the only possible

1 basis for federal jurisdiction is CAFA.” (Docket No. 10). Because CAFA precludes  
2 MDL consideration of a case removed to federal court under CAFA’s “mass action”  
3 provision, like this one, the MDL court remanded the action.

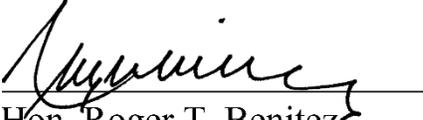
4 In the briefs filed in the MDL court, Plaintiffs contended that CAFA jurisdiction  
5 does not exist. They sought to add this case to an existing coordinated proceeding in  
6 California state court. Pfizer argued that federal jurisdiction exists. The MDL court did  
7 not determine whether CAFA jurisdiction exists to maintain this action in federal court.  
8 Therefore, whether this Court has jurisdiction to consider this action is an open question.

9 Accordingly, the Court requests briefing to determine whether it has federal  
10 jurisdiction under CAFA. Removing defendants must file an opening brief addressing  
11 whether federal jurisdiction exists and whether venue is proper in this Court. *See Abrego*  
12 *Abrego v. The Dow Chemical Co.*, 443 F.3d 676, 685 (9th Cir. 2006) (holding that “under  
13 CAFA the burden of establishing removal jurisdiction remains, as before, on the  
14 proponent of federal jurisdiction”). The brief must be filed by March 17, 2017. Plaintiffs  
15 must file a response by March 31, 2017. Removing defendants may file a reply by April  
16 7, 2017. Defendant McKesson Corporation, which did not join in the removal, must file  
17 a statement of its position by April 7, 2017. The Court will then take the matter under  
18 submission without oral argument. After review of the fully briefed matter, the parties  
19 will be notified of an oral argument hearing date, if any. The parties’ briefs must comply  
20 with the requirements for Civil Local Rule 7.1.

21 If the parties agree that this action should be remanded to state court, they may file  
22 a joint stipulation at any time.

23 **IT IS SO ORDERED.**

24 Dated: March 3, 2017

25   
26 Hon. Roger T. Benitez  
27 United States District Judge  
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