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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 LAW OFFICE OF GUY LEVY, INC.,  
12 Plaintiff,  
13 v.  
14 MOISHE'S MOVING SYSTEMS, LLC,  
15 et al.,  
16 Defendants.

Case No.: 21-cv-1212-L (AGS)

ORDER VACATING ORDER TO  
REMAND [ECF NO. 3]

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18 Defendant Moishes's Moving Systems LLC removed this action from state court  
19 pursuant to 28 U.S.C. §§1331 and 1441, and 49 U.S.C. § 14706. On July 9, 2021, this  
20 Court remanded the action to state court finding that the Court lacked jurisdiction over  
21 Plaintiff's Complaint which contained only state law claims. [ECF No. 3.] On July 12,  
22 2012, Defendant filed a Motion to Amend or Correct the order of removal, arguing that  
23 the Carmack Amendment, 49 U.S.C. §14706 completely preempts state law claims, citing  
24 *Hall v. North American Van Lines, Inc.*, 476 F.3d 683 (9th Cir. 2007).

25 Upon further review, Plaintiff's state law claims appear to fall under the  
26 preemptive power of the Carmack Amendment. In *Hall*, the Ninth Circuit held that "the  
27 Carmack Amendment is the exclusive cause of action for interstate-shipping contract  
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1 claims alleging loss or damage to property.” *Id.* at 688. Here, Plaintiff alleges contract  
2 claims for loss or damage to property pursuant to an interstate-shipping agreement.

3 Defendant has now successfully met its burden of establishing that this Court has  
4 jurisdiction over Plaintiff’s claims. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S.  
5 375, 377 (1994) (citations omitted)(The burden of establishing federal jurisdiction rests  
6 with the party asserting jurisdiction.)

7 Accordingly, the Order of removal is **VACATED**. This Order does not preclude a  
8 motion to remand, should Plaintiff choose to file one.

9 **IT IS SO ORDERED.**

10 Dated: July 15, 2021

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12 Hon. M. James Lorenz  
13 United States District Judge