

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-01981-RPM-MEH

MARLA MARTENSEN,
LAWRENCE PHILLIPS,

Plaintiffs,

vs.

RYAN WORMINGTON,

Defendant.

ORDER OF REMAND

The plaintiffs commenced this action in the District Court for Pueblo County, Colorado, seeking damages for injuries allegedly sustained in automobile accident on November 12, 2009. On August 18, 2010, the defendant removed the action to this court, alleging diversity jurisdiction as the basis for federal jurisdiction. The Notice of Removal recites the defendants' contention that plaintiffs are citizens of Nevada. The defendant states that he is a citizen and resident of Colorado.

“When a plaintiff files in state court a civil action over which the federal district courts would have original jurisdiction based on diversity of citizenship, the defendant or defendants may remove the action to federal court, 28 U.S.C. § 1441(a), provided that no defendant ‘is a citizen of the State in which such action is brought,’ § 1441(b).” *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 68 (1996).

The plaintiffs' claims do not involve any federal question. This action is not removable because the action was brought in Colorado and the defendant is a Colorado citizen.

Accordingly, it is

ORDERED that the action is remanded to the District Court for Pueblo County, Colorado.

Dated: August 19, 2010

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior District Judge