

1 analysis set forth in Stanphill), argue that the local rule is part of the “removal procedure” and
2 that such a procedural defect requires remand. The Court disagrees.

3 Local rule 101(b) is expressly authorized by 28 U.S.C. § 1447(b), which allows the
4 district court to “require the removing party to file with its clerk copies of all records and
5 proceedings in such State court” Section 1447 is entitled “[p]rocedure after removal
6 generally.” The removal itself occurs, with or without defect, up to fourteen days before the
7 state record must be provided. The failure of which plaintiffs complain is simply a failure to
8 comply with the local rules of this district following removal. To the extent Stanphill and
9 Benson stand for the proposition that a failure to comply with LR 101(b) is a defect in the
10 removal procedure itself, the Court respectfully disagrees.¹ While intra-district uniformity on
11 such issues is, of course, preferable, the uniform approach must be the right approach, especially
12 where the order of remand is unappealable and unreviewable.

13 Even if the Court were to assume that a violation of LR 101(b) is appropriately
14 characterized as a defect in the removal procedure, the Court finds that remand, with the
15 concomitant deprivation of a federal forum over an action that obviously triggers this Court’s
16 jurisdiction, is too harsh. The Court regularly allows parties to remedy defects in the Notice of
17 Removal, such as a failure to identify the citizenship of an LLC, even where those defects go to
18 the very existence of federal jurisdiction. Where the alleged defect has no impact on the Court’s
19 power or ability to adjudicate the case and is easily remedied, the Court follows the majority
20 trend of allowing remedial action.²

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22 ¹ The defendant in Stanphill provided only one paragraph of argument in response to plaintiff’s
23 motion to remand, causing the court to mistakenly conclude that the weight of authority supported a
24 remand. C09-0235JCC (Dkt. # 27 at 5).

25 ² Carr v. Capital One, N.A., 460 Fed. Appx. 461, 468 (5th Cir. 2012); Countryman v. Farmers
26 Ins. Exch., 639 F.3d 1270, 1272 (10th Cir. 2011); Cook v. Randolph County, 573 F.3d 1143, 1150 (11th
Cir. 2009); W. Chance No. 2, Inc. v. KFC Corp., 957 F.2d 1538, 1540 n.3 (9th Cir. 1992) (noting that

