

HONORABLE RICHARD A. JONES

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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

EMILY B. CHERKIN and BENJAMIN  
GITENSTEIN,

Plaintiffs,

v.

GEICO GENERAL INSURANCE  
COMPANY, a foreign insurer; JACLYN  
SEIFERT and JOHN DOE SEIFERT; and  
LAWRENCE H. BORK and JANE DOE  
BORK, and their marital community,

Defendants.

Case No. 2:18-cv-00839-RAJ

**ORDER GRANTING  
PLAINTIFFS' MOTION  
TO REMAND**

**I. INTRODUCTION**

This matter is before the Court on Plaintiffs' motion to remand. Dkt. # 15. For the reasons below, the Court **GRANTS** Plaintiffs' motion.

**II. BACKGROUND**

This case arises out of a motor vehicle accident that occurred on April 27, 2014. Dkt. #1-2 at ¶ 4.2. After settlement of their claims against the at-fault driver, Plaintiffs requested that Defendant GEICO pay benefits pursuant to their underinsured motorist ("UIM") policy. During the course of the investigation of the plaintiffs' UIM claim, two GEICO employees, Defendants Jaclyn Seifert and Lawrence Bork, worked on the Plaintiffs' claim as adjusters. *See, e.g.*, Dkt. ##1-2 at ¶¶ 1.3, 1.4, 5.11, 5.13. After GEICO refused to pay any benefits pursuant to Plaintiffs' UIM policy, Plaintiffs initiated an action

ORDER – 1

1 in the King County Superior Court on May 2, 2018. *Id.* at 17.

2 Defendants filed a notice of removal on June 11, 2018. Dkt. # 1. Defendants then  
3 filed Motion to Dismiss Defendants Jaclyn Seifert and Lawrence Bork on June 15, 2018.  
4 Dkt. # 5. Plaintiffs responded to the motion and Defendants filed a reply. *See* Dkt. ## 9-  
5 12. On December 27, 2018, the Court entered an order denying Defendants’ Motion to  
6 Dismiss and ordering Defendants to Show Cause “why this case should not be remanded  
7 to state court.” Dkt. # 13. Specifically, the Court noted that the Washington Court of  
8 Appeals in *Keodalah v. Allstate Ins. Co.*, 3 Wn. App. 2d 31 (2018), held that insurance  
9 adjusters can be individually liable for bad faith and CPA claims. *Id.* at 40–43. Plaintiffs  
10 bring bad faith and CPA claims against all Defendants. Given the conclusion that Seifert  
11 and Bork should not be dismissed as Defendants in this matter, the Court stated that case  
12 lacks the complete diversity of citizenship required for federal jurisdiction and issued an  
13 order to show cause as to why this case should not be remanded to state court. On April 4,  
14 2019, Plaintiff filed a motion to remand, which is currently before the Court. Dkt. # 15.

### 15 **III. DISCUSSION**

16 Removal jurisdiction is strictly construed in favor of remand and any doubt as to the  
17 right of removal must be resolved in favor of remand. *Harris v. Bankers Life & Cas. Co.*,  
18 425 F.3d 689, 698 (9th Cir. 2005). The party seeking a federal forum has the burden of  
19 establishing that federal jurisdiction is proper. *Abrego Abrego v. Dow Chem. Co.*, 443 F.3d  
20 676, 682-83 (9th Cir. 2006). The removing party must carry this burden not only at the  
21 time of removal, but also in opposition to a motion for remand. *See Moore-Thomas v.*  
22 *Alaska Airlines, Inc.*, 553 F.3d 1241, 1244 (9th Cir. 2009). Pursuant to the “well-pleaded  
23 complaint rule,” federal-question jurisdiction exists “only when a federal question is  
24 presented on the face of the plaintiff’s properly pleaded complaint.” *Caterpillar Inc. v.*  
25 *Williams*, 482 U.S. 386, 392 (1987).

26 Defendants assert that this Court has jurisdiction over this matter based on diversity  
27 of citizenship of the parties. Dkt. # 1. The Court has diversity jurisdiction over civil actions

1 where the amount in controversy exceeds \$75,000 and the case is between citizens of  
2 different states. 28 U.S.C. § 1332. Plaintiffs and Defendants Seifert and Bork are all  
3 citizens of Washington. As a result, the requirements for diversity jurisdiction have not  
4 been met. As they did in their motion to dismiss, Defendants argue that Seifert and Bork  
5 are dispensable parties and thus should be dropped under Rule 21. Dkt. # 16 at 2.  
6 Defendants argue that there is no basis on which to distinguish Seifert’s and Bork’s  
7 liabilities separate and apart from GEICO because they are alleged to be representatives of  
8 GEICO on Plaintiffs’ insurance claim. *Id.* at 3. (“Plaintiffs do not allege facts that would  
9 allow a finding of violations against the individual employees but not find against GEICO  
10 as stated above, there are no allegations that Seifert or Bork acted outside the scope of their  
11 employment.”).

12 The Court again concludes that Seifert and Bork are not dispensable parties.  
13 Plaintiffs brought this case against them based on a viable state law. *See Keodalah v.*  
14 *Allstate Ins. Co.*, 3 Wn. App. 2d 31 (2018) (holding that insurance adjusters can be  
15 individually liable for bad faith and CPA claims). Plaintiffs bring bad faith and CPA claims  
16 against all Defendants. Accordingly, there is no diversity of citizenship and this Court  
17 lacks jurisdiction over this action.

#### 18 IV. CONCLUSION

19 For the reasons stated above, the Court **GRANTS** Plaintiffs’ motion. Dkt. # 15.  
20 The Court hereby **REMANDS** this case to King County Superior Court.

21 DATED this 26th day of September, 2019.

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25 The Honorable Richard A. Jones  
26 United States District Judge