

1 HONORABLE RONALD B. LEIGHTON
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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 WALENTYNA PIATEK and EUGENIUSZ
12 ANTONI PIATEK, wife and husband; and
13 STANISLA PIATEK, an unmarried individual,
14 Plaintiff,

15 v.

16 RENATA ANNA PIATEK, and unmarried
17 individual,
18 Defendant.

Case No. C08-05667 RBL

ORDER GRANTING PLAINTIFF'S
MOTION TO REMAND

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21 THIS MATTER having come before the Court on Plaintiffs' motion for remand to Superior Court
22 of Washington for Pierce County [Dkt. #12]. For the reasons set forth below, the motion is GRANTED.

23 **I. Background**

24 This matter is the second case before the Court concerning ownership interest in certain real
25 property located in Buckley, Washington (Buckley Property). Both matters were removed from the
26 Superior Court of Washington for Pierce County. The first action, *Renata Piatek v. Magdalena Siudy*
27 Cause No. CV 07-05132 RBL, resulted in Renata Piatek (Renata) receiving sole ownership interest in the
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1 Buckley Property. Renata brought suit against her then husband’s girlfriend, Magdalena Siudy (Ms.
2 Siudy), after the property was transferred to Ms. Siudy pending divorce proceedings in Poland [*Id.*, Dkt.
3 #56]. Renata’s estranged husband, Stanislaw Piatek (Stan), appeared as the sole defense witness in the
4 first case but he was not formally named as a defendant. This matter is Stan’s second attempt to persuade
5 the courts of his right to title of the Buckley Property. While Stan appeared as a witness in the first action,
6 none of the current Plaintiffs were formally named as Defendants in that action.
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8 Stan is a dual citizen of both Poland and the United States [Dkt. #14]¹, and is domiciled in Poland
9 [Dkt. #20]. Renata is a citizen of the United States [Dkt. #13, Ex. B.].
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11 While the ultimate issue of title may easily be dealt with based on Defendant’s *lis pendens*
12 argument, the Court lacks subject matter jurisdiction to make that determination.
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14 **II. Discussion**

15 When a case is removed to this Court on the basis of diversity jurisdiction, complete diversity is
16 determined at the time notice for removal is filed. *Spencer v. United States District Court for the Northern*
17 *District of California*, 393 F.3d 867, 871 (9th Cir. 2004). A federal court must remand the case if there is any
18 defect which causes federal jurisdiction to fail, including the subsequent discovery that a lack of complete
19 diversity existed at the time of removal. 28 U.S.C. § 1447(c). A United States citizen, domiciled abroad, is
20 not a “citizen of a State” for purposes of diversity jurisdiction and as such that person cannot sue or be sued
21 in federal court on the basis of diversity jurisdiction. *Brady v. Brown*, 51 F.3d 810, 815 (9th Cir. 1995);
22 *Cresswell v. Sullivan & Cromwell*, 922 F.2d 60, 68-69 (2nd Cir. 1990) (holding that a U.S. citizen domiciled
23 abroad cannot be diverse from any opposing party). Domicile is the place where an individual resides with
24 the intent to remain. *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001).
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26 Stan’s domicile is undisputed by the parties. He currently lives in Poland, he signed the complaint
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28 ¹The remaining Plaintiffs, Walentyna Piatek and Eugeniusz Antoni Piatek, are Polish citizens residing in Poland [Dkt.
#14].

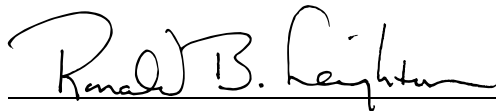
1 instigating this action in Poland, and he is in all likelihood currently in Poland at this time [Dkt. #1; 17; 20].
2 Because Stan is an American citizen domiciled abroad, the Court lacks subject matter jurisdiction on the basis
3 of diversity and as such must remand these proceedings.
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5 **III. Conclusion**

6 The Court lacks subject matter jurisdiction based on Stan's dual citizenship status and his
7 domiciliary status abroad. Based on that status he cannot be diverse from any party before the Court and
8 as such complete diversity is necessarily lacking. Therefore, Plaintiffs' motion is GRANTED, and this
9 matter is hereby remanded to the Superior Court of Washington for Pierce County.
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11 IT IS SO ORDERED.

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13 Dated this 4th day of February, 2009.
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20 RONALD B. LEIGHTON

21 UNITED STATES DISTRICT JUDGE
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