

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**DENNIS BANNING, et al.,**

**Plaintiffs,**

**v.**

**BRIAN BELL, et al.,**

**Defendants.**

**CIVIL ACTION**

**No. 06-2456-KHV**

**ORDER**

This matter comes before the Court on Plaintiffs' Unopposed Motion For Transfer (Doc. #6) filed November 8, 2006. Plaintiffs bring suit against Brian Bell, Scarlet Bell and BBI, L.C., seeking reimbursement for payments on behalf of defendants under commercial loan guaranties. On October 26, 2006, the Court ordered plaintiffs to show good cause in writing why their complaint should not be dismissed for lack of subject matter jurisdiction. See Order (Doc. #5). The Court noted that the complaint did not allege complete diversity and did not properly allege the citizenship of BBI, L.C. See id. at 1-2.

Plaintiffs have not responded to the Court's show cause order. Instead, plaintiffs ask the Court to transfer this case to the District Court of Labette County, Kansas. The Court lacks authority to take such action. See Fed. R. Civ. P. 12(h)(3) (whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action); see also 28 U.S.C. § 1631 (limiting transfers to cure want of jurisdiction to other federal courts); Ferguson v. Oklahoma, 6 Fed. Appx. 797, 799 (10th Cir. 2001) (no law permits federal court to transfer case to state court where federal court lacks subject matter jurisdiction); Mills v. Maine, 118 F.3d 37, 52 (1st Cir. 1997) (absent specialized state

statute, federal district court must proceed no further and dismiss action when it lacks subject matter jurisdiction).

For the reasons set forth in its show cause order, the Court finds that it lacks subject matter jurisdiction. The Court may not transfer the case to the District Court of Labette County, Kansas. Accordingly, the complaint is dismissed without prejudice.

**IT IS SO ORDERED.**

Dated this 15th day of November, 2006 at Kansas City, Kansas.

s/ Kathryn H. Vratil  
Kathryn H. Vratil  
United States District Judge