

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

SPARKS LEGENDS DEVELOPMENT,
INC.,

Plaintiff,

vs.

Case No. 11-2018-EFM

DICKINSON THEATRES, INC.

Defendant.

MEMORANDUM AND ORDER

Defendant, a Kansas corporation, removed this action from a state court proceeding in the District Court of Johnson County, Kansas, based on diversity jurisdiction. Plaintiff moves to remand the matter to the state court on the basis that Defendant's removal is barred by the forum-defendant rule.¹ The Court agrees.

Under 28 U.S.C. § 1441(b), an action removed on the basis of diversity is only removable "if none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought." "Removal jurisdiction over diversity cases is more limited than jurisdiction over diversity cases originally brought in federal court because removal based on diversity is available only if none of the defendants is a citizen of the state in which the action is

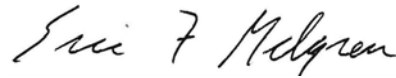
¹Defendant did not file a response, and Plaintiff's motion is uncontested.

brought.”² Here, Defendant is a Kansas corporation and states that the basis of its removal to federal court is diversity. Pursuant to § 1441(b), because Defendant is a citizen of Kansas, this case is not properly removable.

IT IS ACCORDINGLY ORDERED that Plaintiff’s Motion to Remand (Doc. 8) is hereby **GRANTED**, and this case is remanded to the District Court of Johnson County, Kansas.

IT IS SO ORDERED.

Dated this 3rd day of February, 2011.

A handwritten signature in black ink, reading "Eric F. Melgren". The signature is written in a cursive, flowing style.

ERIC F. MELGREN
UNITED STATES DISTRICT JUDGE

²*Wolf Creek Nuclear Operating Corp. v. Framatome ANP, Inc.*, 416 F. Supp. 2d 1081, 1085 (D. Kan. 2006).