

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES -- GENERAL

Case No. **CV 14-4012-JFW (JPRx)**

Date: June 5, 2014

Title: Joseph W Gilbert, et al. -v- AstraZeneca Pharmaceuticals LP, et al.

PRESENT:

HONORABLE JOHN F. WALTER, UNITED STATES DISTRICT JUDGE

**Shannon Reilly
Courtroom Deputy**

**None Present
Court Reporter**

ATTORNEYS PRESENT FOR PLAINTIFFS:

None

ATTORNEYS PRESENT FOR DEFENDANTS:

None

PROCEEDINGS (IN CHAMBERS):

**ORDER REMANDING ACTION TO LOS ANGELES
COUNTY SUPERIOR COURT**

On February 20, 2014 Plaintiffs Joseph W. Gilbert, Linda Downing, Joyce M. McQueen, William K. Stacy, Dolores L. Walters, Dorothy J. Whitlock, Kathy M. Tomberlin and Steve Tomberlin, Krishram Goberdhan and Dhandai Goberdhan, and Nicholas Marquez and Sandra Marquez (collectively "Plaintiffs") filed a Complaint against Defendants AstraZeneca Pharmaceuticals LP, AstraZeneca LP, and McKesson Corporation (collectively, "Defendants") in Los Angeles County Superior Court. On April 30, 2014, Plaintiffs filed a Request to Coordinate Add-On Case, seeking an order coordinating this action with the "*Crestor Product Liability Cases*, JCCP No. 4713", which was established in California state court so that one judge could handle for all purposes all coordinated cases involving allegation of injury from the ingestion of Crestor. On May 26, 2014, Defendants AstraZeneca Pharmaceuticals LP and AstraZeneca LP (collectively, the "Removing Defendants") filed a Notice of Removal, alleging that this Court has jurisdiction pursuant to the "mass action" provision of the Class Action Fairness Act.

Federal courts are courts of limited jurisdiction, having subject matter jurisdiction only over matters authorized by the Constitution and Congress. See *Bender v. Williamsport Area School District*, 475 U.S. 534, 541 (1986). "Because of the Congressional purpose to restrict the jurisdiction of the federal courts on removal, the statute is strictly construed, and federal jurisdiction must be rejected if there is any doubt as to the right of removal in the first instance." *Duncan v. Stuetzle*, 76 F.3d 1480, 1485 (9th Cir. 1996) (citations and quotations omitted). There is a strong presumption that the Court is without jurisdiction unless the contrary affirmatively appears. See *Fifty Associates v. Prudential Insurance Company of America*, 446 F.2d 1187, 1190 (9th Cir. 1990). As the parties invoking federal jurisdiction, the Removing Defendants bear the burden of demonstrating that removal is proper. See, e.g., *Gaus v. Miles*, 980 F.2d 564, 566 (9th Cir. 1992); *Emrich v. Touche Ross & Co.*, 846 F.2d 1190, 1195 (9th Cir. 1988).

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Pursuant to currently binding Ninth Circuit precedent, the Court lacks subject matter jurisdiction over this matter. See *Tanoh v. Dow Chemical Co.*, 561 F.3d 945 (9th Cir. 2009). The Court declines to stay this action on the mere chance that the Ninth Circuit will reverse its earlier precedent when it rules *en banc* in *Romo v. Teva Pharm. USA, Inc.*, No. 13-56310, Dkt. 74 (9th Cir. Feb. 10, 2014). Indeed, staying this action will not promote judicial efficiency, especially in light of the fact that many of the coordinated actions in the *Crestor Product Liability Cases*, JCCP No. 4713 have been pending since 2012.

For the foregoing reasons, this action is **REMANDED** to Los Angeles County Superior Court for lack of subject matter jurisdiction. See 28 U.S.C. § 1447(c).

IT IS SO ORDERED.