

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CARMELA MENNA	:	
	:	
Plaintiff,	:	CIVIL ACTION
	:	
	:	NO. 99-5977
v.	:	
	:	
K-MART, INC. and STANLEY	:	
ACCESS TECHNOLOGY, INC.	:	
	:	
Defendants.	:	

**MEMORANDUM**

BUCKWALTER, J.

January 18, 2000

Presently before the Court is Plaintiff's Answer to Defendant's Notice of Removal, which will be treated as Plaintiff's Motion to Remand. For the reasons stated below, the Plaintiff's Motion will be denied. The case will not be remanded and will remain in this district court.

**I. FACTUAL BACKGROUND**

This action arises from a personal injury suffered by Plaintiff Carmela Menna at a K-Mart store located in Philadelphia on July 26, 1998. Plaintiff alleges injuries resulting from her arm being caught in the "automatic door system" at the K-Mart store at 424 Oregon Avenue West in Philadelphia. The Plaintiff filed a Complaint in the Court of Common Pleas,

Philadelphia County against K-Mart Corporation, the owner of the store, and Stanley Access Technologies, Inc., the maker of the automatic door system (“Defendants”).

Defendants moved to remove the case to federal court based on the diverse citizenship of the parties. Defendant K-Mart is a Michigan corporation with its principal place of business in Troy, Michigan. Defendant Stanley Access Technologies is a Connecticut corporation with its principal place of business in New Bristol, Ct. Plaintiff admits that the Defendants’ states of incorporation and principal place of business as are stated above. All parties agree that the amount in controversy exceeds the requirements for diversity citizenship under 28 U.S.C. § 1332.

## **II. DISCUSSION**

Plaintiffs’ Motion for Remand is properly before this Court pursuant to 28 U.S.C. § 1447(c), which provides, in relevant part, that “[i]f at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded.”

The removal statute, 28 U.S.C. § 1441(a), provides for the removal of cases in which the federal courts have original jurisdiction. Therefore, since this parties to this case have diverse citizenship and the amount in controversy exceeds \$75,000, the case was properly removed.

The Plaintiff disputes Defendant’s removal because of a lack of diversity among the parties. The Plaintiff argues that both Defendants are citizens of Pennsylvania because they are licensed, and in fact do, business in the Commonwealth. However, under § 1332(c), a corporation, for diversity purposes under §§ 1332 and 1441, shall be deemed a citizen of any state by which it has been incorporated and of the state where it has its principal place of

business. See, e.g. Brandt v. Weather Channel, Inc., 42 F.Supp.2d 1344 (S.D. Fla. 1999). It has long been settled that a corporation can have only one principal place of business. Vareka Invs. N.V. v. American Inv. Properties, Inc., 724 F.2d 907 (11th Cir.1984); Carter-Langham v. Phillips Petroleum Co., 957 F.Supp. 940 (S.D. Tex. 1997). Plaintiff has admitted that K-Mart is a Michigan corporation with its principal place of business within the state, and Stanley is a Connecticut corporation with its principal place of business in that state. Therefore, the parties can not also be “citizens” of Pennsylvania for diversity purposes under § 1332. Accordingly, Plaintiff’s Motion will be denied.

An order follows.

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Defendants.

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CIVIL ACTION

NO. 99-5977

**ORDER**

AND NOW, this 18th day of January, 2000, upon consideration of the Plaintiff's Answer to Defendant's Notice of Removal which will be treated as a Motion to Remand (Docket No. 2), and the Defendants' Response thereto (Docket Nos. 6 & 9), it is hereby **ORDERED** that the Motion is **DENIED** and the case will not be remanded.

BY THE COURT:

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RONALD L. BUCKWALTER, J.