

**NOT FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

**FILED**

FEB 12 2015

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

**KIERRE TOWNSEND, on behalf of  
herself, all others similarly situated, and  
the general public,**

Plaintiff - Appellee,

v.

**BP AMERICA, INC., a Delaware  
corporation and BP CORPORATION  
NORTH AMERICA, INC., an Indiana  
corporation,**

Defendants,

and

**BRINDERSON CONSTRUCTORS,  
INC., incorrectly identified as  
Brinderson Corporation,**

Defendant - Appellant.

No. 14-56910

D.C. No. 2:14-cv-05320-FMO-RZ

**MEMORANDUM\***

Appeal from the United States District Court  
for the Central District of California  
Fernando M. Olguin, District Judge, Presiding

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Submitted January 5, 2015\*\*  
Pasadena, California

Before: **KOZINSKI, W. FLETCHER** and **OWENS**, Circuit Judges.

In light of the Supreme Court's decision in Dart Cherokee Basin Operating Co. v. Owens, No. 13-719, 2014 WL 7010692 (U.S. Dec. 15, 2014), we vacate the decision of the district court and remand for further proceedings. On remand, if Townsend challenges jurisdiction, Brinderson shall have the opportunity to provide evidence demonstrating that the case meets the requirements of 28 U.S.C.

§ 1332(d)(2). See Dart Cherokee, at \*5.

We express no view as to the district court's determination that it lacked federal question jurisdiction over this case.

**VACATED AND REMANDED. Costs to Appellant.**

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\*\* The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).