

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION**

DUANE LANDRY and ROBBIE GRIGGS

PLAINTIFFS

V.

CASE NO. 3:20-CV-3043

EARTH SHELTERED TECHNOLOGY, INC.;
JERRY HICKOK; JEFF HICKOK; and
CHARLIE HICKOK

DEFENDANTS

OPINION AND ORDER REMANDING
CASE TO STATE COURT

This case was first filed in the Circuit Court of Marion County, Arkansas on December 28, 2018. It was removed to this Court nearly eighteen months later, on June 26, 2020. Defendants cited 28 U.S.C. § 1446(b)(3) as the basis for removal, which permits that “a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.” The Court held a case management hearing on August 26 at which it pointed out that the following section provides that a case “may not be removed under subsection (b)(3) on the basis of jurisdiction conferred by section 1332 more than 1 year after commencement of the action, unless the district court finds that the plaintiff has acted in bad faith in order to prevent a defendant from removing the action.” 28 U.S.C. § 1446(c)(1). The Court then entered an order directing Defendants to show cause as to why this case should not be remanded for lack of federal jurisdiction pursuant to § 1446(c)(1). In response, Defendants have informed the Court that they have no evidence that Plaintiffs acted in bad faith, as required by the statute, and do not object to the remand of this matter to state court. (Doc. 16).

The Court finds that removal of this case is improper because the action was initiated in state court more than one year ago and there is no evidence that bad faith by the Plaintiffs caused the delay in removal. Therefore, the case is **REMANDED** to the Circuit Court of Marion County, Arkansas.

IT IS SO ORDERED on this 10th day of September, 2020.



TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE