

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

MINOR CHILDREN

CIVIL ACTION

VERSUS

NO. 22-3062

ROMAN CATHOLIC CHURCH OF THE
ARCHDIOCESE OF NEW ORLEANS

SECTION M (2)

ORDER & REASONS

Before the Court is the motion of plaintiffs, a group of school-age children with disabilities in the New Orleans area, for attorney's fees under 28 U.S.C. § 1447(c) for what they claim was the improper removal of this case from state court by the defendant, the Roman Catholic Church of the Archdiocese of New Orleans (the "Archdiocese").¹ Plaintiffs argue that their motion is timely, and that this Court should award them the attorney's fees they incurred as a result of the removal (and subsequent remand) because, they say, the Archdiocese lacked an objectively reasonable basis for removal.² Alternatively, plaintiffs argue that the Court should award the fees under 28 U.S.C. § 1927 due to the Archdiocese's supposedly "vexatious decision to remove and the frivolous arguments" it made in support of removal.³ The Archdiocese responds in opposition,

¹ R. Doc. 14. Plaintiffs originally filed a putative class action in state court against the Archdiocese, in which they allege that the admissions application process used by schools controlled by the Archdiocese violates state discrimination laws. Thereafter, the Archdiocese removed the action to federal court based on bankruptcy subject-matter jurisdiction under 28 U.S.C. § 1334(b). R. Doc. 1. Plaintiffs filed a motion to remand (which, notably, neglected to include any claim for fees under § 1447(c)), R. Doc. 7, and on October 3, 2022, the district court granted the motion and remanded the action to state court, concluding that the action did not relate to the Archdiocese's pending chapter 11 bankruptcy case. R. Doc. 13. While the motion to remand was pending before the district court, plaintiffs filed a motion for a "comfort order" before the bankruptcy court to receive judicial confirmation that their state-court action against the Archdiocese was not subject to the automatic bankruptcy stay. After the action was remanded, the bankruptcy court concluded that the automatic stay applied to plaintiffs' action but, on appeal, in an opinion issued on July 28, 2023, this Court determined that the automatic stay did not apply to plaintiffs' claims in state court. Within days, plaintiffs filed the instant motion for attorney's fees for the Archdiocese's allegedly improper removal of the action to federal court.

² R. Doc. 14-1 at 1-10, 13-17. Plaintiffs re-urge their position in a reply. R. Doc. 24.


³ R. Doc. 14-1 at 10-13.

arguing that plaintiffs’ motion for attorney’s fees is untimely (having been filed 304 days after the remand order was issued) and, in any event, such an award is unwarranted under either § 1447(c) or § 1927 because the Archdiocese had an objectively reasonable basis for removing the action to federal court.⁴ In particular, the Archdiocese contends that it “had a colorable argument that the State Court Action implicates pre-petition conduct” and that “complying with the injunctive relief requested in the State Court Action – and paying for the attorney’s fees and costs demanded – would consume estate resources that could otherwise be used to fund a plan of reorganization and pay creditors.”⁵

Having considered the parties’ memoranda, the record, and the applicable law, this Court concludes that, even though the district court ultimately rejected the Archdiocese’s arguments in support of removal, the removal was objectively reasonable and, so, plaintiffs’ motion for fees should be denied. The Court also finds that the motion is untimely, which constitutes a separate and independent ground for denying it.

IT IS ORDERED that plaintiffs’ motion for attorney’s fees (R. Doc. 14) is DENIED.

New Orleans, Louisiana, this 24th day of August, 2023.


BARRY W. ASHE
UNITED STATES DISTRICT JUDGE

⁴ R. Doc. 20 at 1-18.

⁵ *Id.* at 13.