

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

DALRAIDA PROPERTIES, INC., )  
and PILKERTON BUILDING )  
COMPANY, LLC, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
ELASTIKOTE, LLC, et al., )  
 )  
Defendants. )

CIVIL ACTION NO.  
2:14cv1213-MHT  
(WO)

OPINION AND ORDER

The plaintiffs, two Alabama corporations, filed this lawsuit in state court bringing claims, among others, for products liability, breach of express and implied warranties, fraud, and negligent misrepresentation, stemming from the purchase and use of a purportedly defective roof sealant. One of defendants removed this case to federal court, claiming that the court has diversity jurisdiction because the one defendant who would destroy diversity was fraudulently joined. See 28 U.S.C. § 1332. The

plaintiffs moved to remand. This lawsuit is now before the court on the recommendation of the United States Magistrate Judge that the plaintiffs' remand motion be granted and that the case be remanded to state court for lack of subject-matter jurisdiction. Also before the court is the removing defendant's objection to the recommendation.\* After an independent and de novo review of the record, the court concludes that the magistrate judge's recommendation should be adopted.

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Accordingly, it is the ORDER, JUDGMENT, and DECREE of the court that:

- (1) The objection (doc. no. 19) is overruled.
- (2) The magistrate judge's recommendation (doc. no. 18) is adopted.

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\* In the objection, the removing defendant argues for the first time that allowing a negligent misrepresentation claim to proceed against the one Alabama defendant would violate the public policy of the State of Alabama. As this argument was not raised before the magistrate judge, this court will not consider it now.

(3) The plaintiffs' motion to remand (doc. no. 13) is granted.

(4) Pursuant to 28 U.S.C. § 1447(c), this cause is remanded to the Circuit Court of Montgomery County, Alabama.

The clerk of the court is DIRECTED to take appropriate steps to effect the remand.

This case is closed in this court.

DONE, this the 15th day of July, 2015.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE