

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

TAMMY PERRY,)	
)	
PLAINTIFF,)	
)	
v.)	CIVIL ACTION No. 3:10-CV-455-MEF
)	
SCHNEIDER NATIONAL BULK)	(WO)
CARRIER, INC., et al.,)	
)	
DEFENDANTS.)	

MEMORANDUM OPINION AND ORDER

This cause is before the Court on the Motion to Substitute Plaintiff’s Objection to the Defendant’s Notice of Removal with Motion for Remand (Doc. # 7) filed on June 3, 2010 by counsel for plaintiff Tammy Perry (“Perry). By this motion, Perry seeks to have the Court deem her Motion for Leave to Amend Complaint (Doc. # 7-1) and Motion for Remand (Doc. # 7-1) deemed filed as of May 27, 2010, the date on which Perry originally objected to the removal. Perry provides no legal authority for the “substitution” she seeks, nor is the Court aware of any. Moreover, the Court is not at all sure that the date of the filing of either motion would be significant to any of the legal issues contained therein. Accordingly, to the extent that Perry asks the Court to substitute these documents, her motion is DENIED. However, to the extent that she seeks to file the Motion for Leave to Amend Complaint, it is GRANTED and that document shall be deemed a pending motion. It is further ORDERED that Defendants shall have until **June 22, 2010** to submit any brief in opposition to the Motion for Leave to Amend Complaint (Doc. # 7-1). Because the Motion for Remand (Doc.

7-1) depends entirely on an assumption that the amended complaint, itself, has been filed, it is premature. Accordingly, it is ORDERED that the motion for leave to file the motion for remand is DENIED as such a motion is premature. Should the amendment be allowed and should Perry wish to persist in her contention that the amended complaint divests this Court of subject matter jurisdiction, she may refile a motion for remand at a later date.

DONE this the 15th day of June, 2010.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE