

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

RUSSELLVILLE STEEL COMPANY, INC. **PLAINTIFF**

V. **NO. 4:08CV004016**

WHITE-SPUNNER CONSTRUCTION, INC. **DEFENDANT**

ORDER

Pending is Plaintiff's motion for remand. (Docket # 5). Defendant has responded and replies and supplemental pleadings have been filed.

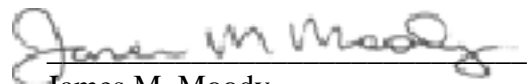
Plaintiff, Russellville Steel Company, Inc. ("Russellville Steel") filed a complaint against defendant, White-Spunner Construction, Inc. ("White-Spunner") on September 30, 2008 in the Circuit Court of Pope County, Arkansas alleging that White-Spunner had failed to make payments pursuant to an alleged contract between the parties. White-Spunner, an Alabama corporation with its principal place of business in Mobile, Alabama, removed the case to this Court on October 28, 2008 based on diversity jurisdiction. Russellville Steel argues that litigation in the Circuit Court of Pope County is required based on a choice of forum clause set forth in the contract of the parties which places jurisdiction in Russellville, Arkansas.

It is undisputed that a forum selection clause may operate as a waiver of a party's right to remove a case to federal court. *See, e.g., iNet Directories, LLC v. Developershed, Inc.*, 394 F.3d 1081 (8th Cir. 2005). However, waiver of the right to remove must be "clear and unequivocal." *Weltman v. Silna*, 879 F. 2d 425 (8th Cir. 1989). The forum selection clause at issue herein states: "For purposes of payment and collection, jurisdiction is Russellville, Arkansas." As no federal district court sits in Russellville, Arkansas, the Court finds the forum selection clause

clear and unequivocal. “Jurisdiction in Russellville, Arkansas” is subject to only one reasonable interpretation, jurisdiction is in the court which sits in Russellville, Arkansas, the Circuit Court of Pope County.

Accordingly, the Court finds that Defendant waived its right to remove this case to federal court. The case is hereby remanded to the Circuit Court of Pope County, Arkansas.

IT IS SO ORDERED this 2nd day of December, 2008.

A handwritten signature in cursive script, appearing to read "James M. Moody", written over a horizontal line.

James M. Moody
United States District Judge