

1
2
3
4
5 **UNITED STATES DISTRICT COURT**
6 **EASTERN DISTRICT OF CALIFORNIA**
7

8 **SHANNON ELLIS,**

9 **Plaintiff**

10 **v.**

11 **AMERIGAS PROPANE, INC., JOSEPH**
12 **WADE, and DOES -50,**

13 **Defendants**

CASE NO. 1:16-CV-1184 AWI SKO

**ORDER TO SHOW CAUSE WHY
CLAIMS AGAINST JOSEPH WADE
SHOULD NOT BE SEVERED AND
REMANDED DUE TO FRAUDULENT
JOINER, OR IN THE ALTERNATIVE
WHY THIS WHOLE CASE SHOULD
NOT BE REMANDED FOR LACK OF
DIVERSITY JURISDICTION**

14 Shannon Ellis has filed suit against former employer Amerigas, alleging employment
15 discrimination and retaliation. As part of the same case, she also made civil assault and battery
16 claims against Joseph Wade, a disgruntled customer of Amerigas, who allegedly attacked her at
17 work. Plaintiff originally brought suit in Superior Court, County of Madera. Amerigas has
18 removed the case to the Eastern District of California based on diversity jurisdiction asserting that
19 Plaintiff is a California citizen and Amerigas is a Pennsylvania citizen. Joseph Wade is also a
20 California citizen but Amerigas asserts that he has been fraudulently joined. Amerigas provides
21 some legal briefing to support its request that “Wade’s claims should be severed and remanded to
22 state court, and the Court should retain jurisdiction over the claims against AmeriGas Propane.”
23 Doc. 1, 9:28-10:2. Plaintiff has made an appearance in the case. Doc. 7. This issue implicates the
24 court’s subject matter jurisdiction and must be resolved before the case can proceed.

25 Plaintiff is ordered to file a response to Amerigas’s notice of removal (Doc. 1) by October
26 13, 2016. Plaintiff is directed to provide briefing on the facts of her claims and the law concerning
27 fraudulent joinder. Amerigas is ordered to file a response to Plaintiff’s filing by October 27, 2016.
28 If Plaintiff wishes, she may file a further response by November 10, 2016. If Joseph Wade makes

1 an appearance in this case, he may also file a response on this matter.

2
3 IT IS SO ORDERED.

4 Dated: September 21, 2016


5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SENIOR DISTRICT JUDGE