

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Action No. 15-cv-02398-REB-KLM

GILBERT T. TSO,

Plaintiff,

v.

REBECCA MURRAY,
TANYA AKINS, in her individual and official capacities,
SHERR PUTTMANN AKINS LAMB PC, a law firm,
JEANNIE RIDINGS, in her individual and official capacities,
KILILIS RIDINGS & VANAU PC, a law firm,
RUSSELL M. MURRAY, in his individual capacity,
DENA MURRAY, in her individual capacity,
JOANNE JENSEN, in her individual capacity,
DAVID P. BRODSKY, in his individual and official capacities,
ELIZABETH A. STARRS, in her individual and official capacities,
CHARLES D. JOHNSON, in his individual and official capacities,
ROSS B. H. BUCHANAN, in his individual and official capacities,
DAVID H. GOLDBERG, in his individual and official capacities,
THE COUNTY OF LAKE, ILLINOIS,
MITCH MCKEE, in his official capacity,
THE CITY AND COUNTY OF DENVER, COLORADO, and
THE STATE OF COLORADO,

Defendants.

**ORDER ADOPTING RECOMMENDATION OF THE
UNITED STATES MAGISTRATE JUDGE**

Blackburn, J.

This matter is before me on the **Recommendation of United States Magistrate Judge** [#44]¹ filed January 7, 2016. The plaintiff filed objections [#49]. I overrule the

¹ “[#44]” is an example of the convention I use to identify the docket number assigned to a specific paper by the court’s case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

objections, approve and adopt the recommendation, and remand the underlying cases to the state court where they originated.

As required by 28 U.S.C. § 636(b), I have reviewed *de novo* all portions of the recommendation to which the plaintiff objects. I have considered carefully the recommendation, the objections, the other filings in this case, and the applicable law.

In this federal district court, this case originated with the filing by the plaintiff, Gilbert T. Tso, of a **Notice of Petition and Verified petition for Warrant of Removal** [#1] filed October 28, 2015. Mr. Tso seeks to remove two cases from the District Court for the City and County of Denver, Colorado, filed there under case numbers 14-cv-00456 and 13-DR-1684. *See complaints and related orders* [#3, #4, #5, #6, #7]. In both state cases, Gilbert T. Tso is the plaintiff. Gilbert T. Tso, as plaintiff, is the party who filed the notice of removal [#1] in the above captioned case.

The plaintiff asserts 28 U.S.C. § 1443 as the basis for removal of the state court cases to this federal court. As noted by the magistrate judge, under this statute, only a defendant in a state court action may remove a case from state court to federal court. Thus, Mr. Tso, as the plaintiff in both state court cases, is not authorized to remove those cases to federal court under § 1443. None of his arguments in support of removal refutes the ineluctable legal conclusion that he may not remove these cases under § 1443.

THEREFORE, IT IS ORDERED as follows:

1. That the **Recommendation of United States Magistrate Judge** [#44] is approved and adopted as an order of this court;
2. That the objections of the defendant [#49] are overruled;
3. That under 28 U.S.C. § 1443, these cases are remanded to the District Court

for the City and County of Denver, Colorado, where they were filed originally under case numbers 14-cv-00456 and 13-DR-1684;

4. That the **Motion To Extend Time To Answer or Otherwise Plead** [#65] filed by the defendants on February 4, 2016, is granted;

5. That the deadline for filing an answer or other responsive pleading or motion is extended to 21 days after the date of this order, absent a contrary order entered by the state court in the underlying state cases;

6. That all other pending motions, including those docketed as [#18, #26, #34, #36, #37, #39, #53, #61, #67, and #70], are denied as moot; and

7. That this case is closed.

Dated February 10, 2016, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge