

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

**HAMPTONS AT METROWEST
CONDOMINIUM ASSOCIATION, INC.,**

Plaintiff,

v.

Case No: 6:13-cv-608-Orl-31DAB

**PARK AVENUE AT METROWEST, LTD.,
PARK AVENUE GP, LLC, PARK AVENUE
METROWEST, LLC, PARK AVENUE
TARRAGON, LLC, TARRAGON SOUTH
DEVELOPMENT CORP., TARRAGON
CORPORATION, EPOCH PROPERTIES, INC.,
EPOCH MANAGEMENT, INC., SUNVEST
RESORT COMMUNITIES, LLC, SUNVEST
COMMUNITIES, LLC, SUNVEST USA, LLC,
METROWEST DEVELOPMENT, LLC,
SUNVEST COMMUNITIES USA, LLC, LOUIS
BIRDMAN, ANTHONY C. MARTIN, HERBERT
HIRSCH, SUNVEST B.C. DEVELOPMENT,
LLC,**

Defendants.

ORDER

On May 13, Magistrate Judge Baker entered a Report and Recommendation (Doc. 22), recommending that this matter be remanded back to state court due to a lack of subject matter jurisdiction. Plaintiff filed timely objections to the Report (Doc. 26). Upon de novo review of the above, the Court finds that the Plaintiff has failed to make a showing that the Court possesses subject matter jurisdiction over this dispute. It certainly appears from the record that the Plaintiff and the Defendants have colluded to abuse Florida's prejudgment garnishment procedures. Such abuse, however, does not transform what is clearly an ancillary proceeding into an independent

one that may be removed. *See, e.g., Office Building, LLC v. CastleRock Sec., Inc.*, No. 10-61582-CV; 2011 WL 1674963, 3 (S.D. Fla. May 3, 2011).


It is, therefore

ORDERED that:

1. The Report and Recommendation of the Magistrate Judge is **CONFIRMED AND ADOPTED**;

2. This matter is **REMANDED** to the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida. The Clerk is directed to close the file.

DONE and **ORDERED** in Orlando, Florida on June 10, 2013.



GREGORY A. PRESNELL
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties