

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

In re:

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

Garnishor,

v.

Case No: 6:15-cv-753-Orl-22DAB

**NATIONWIDE PROPERTY AND
CASUALTY INSURANCE COMPANY and
NATIONWIDE MUTUAL INSURANCE
COMPANY,**

Garnishee.

ORDER

This cause is before the Court on Garnishor Hamptons at Metrowest Condominium Association, Inc.'s ("Hamptons") Motion to Remand to State Court, filed on June 11, 2015. (Doc. No. 23). Garnishee Nationwide Property and Casualty Insurance Company ("Nationwide") filed a response in opposition. (Doc. No. 26).

On July 17, 2015, the United States Magistrate Judge submitted a report recommending that this case be remanded back to state court as untimely removed under 18 U.S.C. § 1446. (Doc. No. 27).

After an independent *de novo* review of the record in this matter, including the objections filed by the Nationwide, (Doc. No. 28), and Hamptons' response thereto, (Doc. No. 30), the Court agrees entirely with the findings of fact and conclusions of law in the Report and Recommendation.


This action has the same issues previously addressed by Magistrate Judge David Baker in Case No. 6:15-cv-700-Orl-41DAB, (Doc. Nos. 39, 40). Here, the arguments raised by Nationwide in response to the Magistrate Judge's report are not persuasive; Judge Baker thoroughly analyzed the relevant arguments and law, and properly concluded that the initial pleading setting forth the claim for relief upon which this action is based is the writ of garnishment itself. The Court agrees with the well-reasoned and thorough analysis of Magistrate Judge Baker when he addressed the arguments presented. Because Nationwide was served with the writ on March 9, 2015, but did not file its Notice of Removal until some sixty-four (64) days later, on May 12, 2015, (*see* Doc. No. 1), removal of this case was improper under 28 U.S.C. § 1446. *See Univ. of S. Alabama v. Am. Tobacco Co.*, 168 F.3d 405, 411 (11th Cir. 1999). (“[A]ll doubts about jurisdiction should be resolved in favor of remand to state court.”).

Therefore, based on the foregoing, it is **ORDERED** as follows:

1. Magistrate Judge Baker's Report and Recommendation filed July 17, 2015 (Doc. No. 27), is **ADOPTED** and **CONFIRMED** and made a part of this Order.
2. Garnishee Nationwide Property and Casualty Insurance Company Written Objections to the Report and Recommendation, filed on July 29, 2015 (Doc. No. 28), are **OVERRULED**.
3. Garnishor Hamptons at Metrowest Condominium Association, Inc.'s Motion to Remand to State Court, filed on June 11, 2015. (Doc. No. 23), is **GRANTED**.
4. This case is **REMANDED** to the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida, Case No. 48-2008-CA-008235-O.

5. The Clerk is directed to **CLOSE** this case.

DONE and **ORDERED** in Orlando, Florida on August 23, 2015.


ANNE C. CONWAY
United States District Judge

Copies furnished to:

Counsel of Record

Unrepresented Parties

Clerk of Court for Florida's Ninth Judicial Circuit in and for Orange County, Florida