

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ROHAN B. GOLDSON &
SUZETTE HOLNESS, individually
and as Personal Representatives for
the Estate of Davie Goldson,

Plaintiffs,

v.

Case No. 8:17-cv-340-T-24 AEP

KB HOME and KB HOME
TAMPA, LLC,

Defendants.

ORDER

This cause comes before the Court on Defendants' Motion for Relief Pursuant to Rule 60(b). (Doc. No. 15). Plaintiffs oppose the motion. (Doc. No. 17). As explained below, the motion is denied as moot.

On June 23, 2016, Plaintiffs filed suit against Defendants in state court, which Defendants removed to this Court based on diversity subject matter jurisdiction on February 10, 2017. The lawsuit was based on the allegedly defective construction of Plaintiffs' home. Thereafter, Plaintiff sought leave to amend their complaint to add the general contractor, Marshall Scott Gray. The Court granted the motion, and because the addition of Gray would destroy diversity jurisdiction, the Court remanded the case to state court. The Court directed Plaintiffs to file their second amended complaint adding Gray as a defendant in state court by April 7, 2017.

Plaintiffs failed to timely file a second amended complaint adding Gray as a defendant. As a result, on April 11, 2017, Defendants filed the instant motion to vacate the Court's remand

order. Additionally, on April 11, 2017, Defendants re-removed this case back to this Court, and the re-removed case is now pending before Judge Kovachevich under case number 8:17-cv-848-T-17-TGW. Plaintiffs moved to transfer the case pending before Judge Kovachevich to the undersigned, and an order granting that motion is forthcoming.

Because this case has been re-removed and will be transferred to the undersigned, the Court sees no reason to vacate its prior remand order. If Plaintiffs wish to have this case remanded once again to state court, Defendants can raise any arguments against remand in an opposition brief. At this time, the re-removed case remains pending in this Court.

Accordingly, it is ORDERED AND ADJUDGED that Defendants' Motion for Relief Pursuant to Rule 60(b) (Doc. No. 15) is **DENIED AS MOOT**.

DONE AND ORDERED at Tampa, Florida, this 17th day of April, 2017.


SUSAN C. BUCKLEW
United States District Judge

Copies to:
Counsel of Record