

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF FLORIDA  
GAINESVILLE DIVISION**

LISA LEE-BOLTON, et al.,

Plaintiffs,

vs.

CASE NO.: 1:10-CV-253-SPM/GRJ

KOPPERS INC., et al.,

Defendants.

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**ORDER ADOPTING REPORT AND RECOMMENDATION**

THIS CAUSE comes before the Court for consideration of the Magistrate Judge's Report and Recommendation (doc. 58), which recommends that the Plaintiffs' Motion to Remand to State Court (doc. 30) be denied. Plaintiff has been afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1). Plaintiffs filed objections (doc. 64) and a reply in support of those objections (doc. 73). Pursuant to Title 28, United States Code, Section 636(b)(1), I find that the Report and Recommendation is correct and should be adopted.

Plaintiffs raised objections to the Report and Recommendation, all of which should be denied. First, Plaintiffs object to the Magistrate Judge's findings regarding the number of putative class members. However, the Court finds that

the Report and Recommendation makes an accurate accounting of the potential class members. Since that number exceeds 100, as required by the Class Action Fairness Act of 2005 (“CAFA”), this prong of determining whether this case was properly removed to this Court has been met.<sup>1</sup> Plaintiffs also object to the Report and Recommendation on the grounds that the \$5,000,000 jurisdictional threshold has not been met for proper removal under CAFA. This Court finds that the Magistrate Judge’s method for determining the aggregate amount in controversy is accurate. As the amount in controversy exceeds \$5,000,000, this prong of determining whether removal to this Court was proper has also been met.

Accordingly, it is hereby ORDERED AND ADJUDGED as follows:

1. The Magistrate Judge’s Report and Recommendation (doc. 58) is **adopted** and incorporated by reference into this order.
2. Plaintiffs’ Motion to Remand (doc. 30) is **denied**.

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<sup>1</sup> The Court notes that included with Plaintiff’s objections to the Report and Recommendation (doc. 64) was a copy of a complaint filed by Carla Melgarejo in a separate action. Plaintiffs attached this complaint as evidence that Melgarejo is represented by her own counsel in another action and should therefore not be included as a putative class member in this action. If this Court were to accept this evidence and make an ultimate determination that Melgarejo should not be included as a putative class member, this would only change the putative class member count from 109 to 108. Since there would still be over 100 putative class members, this issue does not warrant further discussion.

DONE AND ORDERED this 13th day of September, 2011.

*S/ Stephan P. Mickle*

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Stephan P. Mickle

Senior United States District Judge