

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION**

WILLIAM J SANDERS

VS

CASE NO. 3:07cv402-MCR/MD

BAY STATE CABLE TIES LLC, et al.

**REFERRAL AND ORDER**

Referred to Judge Rodgers on 04/13/2009

Type of Motion/Pleading MOTION TO STRIKE OR SET ASIDE ORDER OF APRIL 10, 2009 OR, IN THE ALTERNATIVE FOR RECONSIDERATION

Filed by: DEFENDANT - BAY STATE on 4/10/09 Doc. No. 185  
CABLE TIES LLC

( ) Stipulated/Consented/Joint Pleading

RESPONSES:

\_\_\_\_\_ on \_\_\_\_\_ Doc. No. \_\_\_\_\_

\_\_\_\_\_ on \_\_\_\_\_ Doc. No. \_\_\_\_\_

WILLIAM M. McCOOL, CLERK OF COURT

/s/Donna Bajzik

Deputy Clerk: Donna Bajzik

**ORDER**

The relief requested by Bay State is GRANTED, to the extent the order dated April 10, 2009 (doc. 183), which was entered prematurely, is VACATED.

Oestriech's and AME's revived motion to dismiss/remand (doc. 181) is DENIED. The motion initially appeared to the court to be well-taken in light of the seemingly parallel nature of the claims asserted in the state and federal actions. After considering Bay State's response, however, including its contention that no trial date has yet been set in the state action while one has been set in this case, the court concludes that neither dismissal nor remand of the instant case is warranted on the grounds cited in the motion. If discovery reveals a founded basis for claiming a risk of inconsistent verdicts, and a trial in the state court action is expected to be held prior to the trial set in this forum, the motion to dismiss may be renewed.

s/ M. Casey Rodgers

**M. CASEY RODGERS  
UNITED STATES DISTRICT JUDGE**