

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case Number: 09-20380-CIV-MORENO

KIMBERLY CHARLES, individually, and as
natural guardian of VINCENT EVAN BROWN,
a minor child,

Plaintiffs,

vs.

THE SCHOOL BOARD OF MIAMI-DADE
COUNTY, FLORIDA and ALVIN BRENNAN,
individually,

Defendants.



ORDER REMANDING CASE TO STATE COURT

THIS CAUSE came before the Court upon the Plaintiffs' Motion for Remand to State Court
(D.E. No. 5), filed on March 16, 2009.

THE COURT has considered the motion and the pertinent portions of the record, and being
otherwise fully advised in the premises, it is

ADJUDGED that the motion is GRANTED.

LEGAL STANDARD AND ANALYSIS

The burden of establishing federal jurisdiction falls on the party who is attempting to invoke
the jurisdiction of the federal court. *See McNutt v. General Motors Acceptance Corp.*, 298 U.S. 178,
189 (1936). Courts should strictly construe the requirements of 28 U.S.C. §1441 (removal
jurisdiction) and remand all cases in which such jurisdiction is doubtful. *See Shamrock Oil & Gas
Corp. v. Sheets*, 313 U.S. 100, 109 (1941). Moreover, removal statutes are construed narrowly, and

when the plaintiff and defendant clash on the issue of jurisdiction, uncertainties are resolved in favor of remand. *See Burns v. Windsor Ins. Co.*, 31 F.3d 1092, 1095 (11th Cir. 1994).

The Defendants' Notice of Removal cited 28 U.S.C. §1337 as establishing federal jurisdiction in this case. Nevertheless, §1337 does not confer jurisdiction upon this Court, as the case does not involve federal antitrust laws. This Court may remand cases where procedural defects are present in the removal of the case. 28 U.S.C. §1447(c); *see also, Things Remembered, Inc. v. Petrarca*, 516 U.S. 124, 127-28 (1995).

CONCLUSION

It is therefore ORDERED AND ADJUDGED that this Case be, and the same is, hereby REMANDED to the Circuit Court for the Eleventh Judicial Circuit in and for Dade County, Florida. The Clerk of the Court is hereby directed to take all necessary steps and procedures to effect the expeditious remand of the above-styled action.

DONE AND ORDERED in Chambers at Miami, Florida, this 17th day of April, 2009.



FEDERICO A. MORENO
UNITED STATES DISTRICT JUDGE

Copies provided to:
Counsel of Record
Clerk of the Court for the 11th Judicial Circuit in and for Dade County, Florida