

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**CASE NO. 19-80794-CIV-SMITH**

PHYLLIS THATCHER,

Plaintiff,

vs.

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,Defendant.

ORDER OF REMAND

THIS MATTER is before the Court on Plaintiff's Motions for Remand [DE 5 & 8]. Plaintiff's motions also seek an award of Plaintiff's attorney's fees and costs as a result of Defendant's improper removal. Defendant has not filed a response to either motion. A review of the Notice of Removal indicates that remand is appropriate and Plaintiff is entitled to her reasonable attorney's fees and costs associated with the removal.

Under 28 U.S.C. § 1446(b), "the notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant . . . of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based." Removal statutes should be narrowly construed. *Diaz v. Sheppard*, 85 F.3d 1502, 1505 (11th Cir. 1996). According to the Notice of Removal, Defendant received notice of the suit "through summons on or about April 29, 2019." Defendant filed its Notice of Removal on June 16, 2019. The Notice of Removal states that Plaintiff granted Defendant an additional 20 days to respond to the complaint, making the removal timely. There is nothing in the statute, however, that allows a party to grant an extension

of the statutory time frame for removal and Defendant has cited no authority in support of this proposition. Thus, Defendant's removal was untimely.

Plaintiff, pursuant 28 U.S.C. § 1447(c), seeks its attorney's fees and costs incurred because of Defendant's improper removal. "[C]ourts may award attorney's fees under § 1447(c) only where the removing party lacked an objectively reasonable basis for seeking removal." *Martin v. Franklin Capital Corp.*, 546 U.S. 132, 141 (2005). Here, Defendant's removal was untimely and Defendant had no valid basis to believe otherwise. Consequently, Plaintiff is entitled to her reasonable fees and costs associated with her motions to remand.

Accordingly, it is

ORDERED that Plaintiff's Motions for Remand [DE 5 & 8] are **GRANTED**:

- a) This matter is **REMANDED** to the Fifteenth Judicial Circuit Court, Palm Beach County, Florida.
- b) Plaintiff shall file a motion for her reasonable attorney's fees and costs by **October 21, 2019**.
- c) This case is **CLOSED**.

DONE AND ORDERED in Fort Lauderdale, Florida, this 9th day of October, 2019.

cc: All counsel of record



RODNEY SMITH
UNITED STATES DISTRICT JUDGE