

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

JULIE SUTHERLAND,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 09 C 5061
	)	
TIMOTHY MURPHY, etc., et al.,	)	
	)	
Defendants.	)	

MEMORANDUM ORDER

In response to this Court's September 16, 2009 minute order ("Order"), counsel for defendant CRST Malone, Inc. ("CRST") has filed its Memorandum in Support of Objection to Remand, together with several attached exhibits. Although that Memorandum appears problematic in certain respects, this memorandum order will not address those matters because they may well be rendered moot by the inquiry posed in this memorandum order.

Ex. A to the Petition [sic] for Removal to Federal Court (which is itself Ex. A to CRST's Memorandum) is a photocopy of the state court Complaint that has been the subject of the removal proceeding here. That photocopy bears a "RECEIVED" stamp from the Illinois Secretary of State General Counsel's office dated July 20, 2009. But nothing in the documentation that has been supplied to this Court to this point tells whether that delivery to the Secretary of State was the means through which service of process was sought to be obtained on CRST or its ex-employee truck driver Timothy Murphy ("Murphy") or on both. In

that regard, according to CRST's Mem. 2, its counsel's understanding is that service of process as to Murphy was not obtained through the Secretary of State until August 22, 2009.

If such is indeed the case, CRST's August 18 removal would not have been defective in any event, because the "all defendants" requirement for joinder in or consent to removal applies only to those defendants who had in fact been served with process before removal. But as the Order reflects, this Court understood counsel for plaintiff Julie Sutherland ("Sutherland") to have stated during the course of the September 16 initial status hearing that Murphy had in fact been served in July 2009. Accordingly counsel for Sutherland is ordered on or before October 5, 2009 to file (with a hard copy contemporaneously delivered to this Court's chambers) a proof of service as to Murphy reflecting both the fact and the date of such service. After that added information is in hand, this Court will be in a position to deal with the issue of remand vel non on an informed basis.



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Milton I. Shadur  
Senior United States District Judge

Date: September 24, 2009