

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

This action has just been removed from the Circuit Court of Cook County to this District Court on diversity of citizenship grounds. This memorandum order is issued sua sponte because of two problematic aspects of that removal.

1. To begin with, only one of the defendants--CRST Malone, Inc.--participated in bringing the Notice of Removal ("Notice"),¹ although both 28 U.S.C. §1446(a)² and all of the caselaw applying that section require that all defendants join in or consent in writing to the removal.

2. Even though this District Court is the proper initial federal destination of a removed case under Section 1441(a), it is not at all the proper venue for this lawsuit

¹ Although the old statutory term "petition for removal" has long since been changed to "notice of removal," defense counsel has still employed the former label. If that mistaken usage stems from counsel's reference to an old form book, some office library housecleaning is in order. Meanwhile this memorandum order will properly employ the current usage.

² All further references to Title 28's provisions will simply take the form "Section--."

under Section 1391(a). Section 1391(a)(1) is inapplicable by its terms, and the occurrence of an automobile accident in St. Clair County (the subject matter of this action) places the proper venue in the Southern District of Illinois under Section 1391(a)(2), thus rendering Section 1391(a)(3) inapplicable by its terms.

Because neither of the matters identified here is jurisdictional in nature, this Court will take no action at this point other than contemporaneously issuing its customary initial scheduling order. But this memorandum order directs the litigants to address the matters dealt with here at that initial status hearing.



Milton I. Shadur
Senior United States District Judge

Date: August 19, 2009