

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**ANDREW HAROLD SCHMITT**

**Plaintiff,**

**vs.**

**No. 3:13-cv-00472-DRH-SCW**

**BOMMARITO NORTH COUNTY, INC.,  
et al.,**

**Defendants.**

**ORDER**

**HERNDON, Chief Judge:**

Now pending before the Court is plaintiff Andrew Harold Schmitt's motion to remand to the Circuit Court of Madison County, Illinois (Doc. 28). Plaintiff argues that the Rule of Unanimity and 28 U.S.C. § 1446(b) require that the case be remanded because all of the defendants who were served with the summons and complaint did not join in the removal or file written consents to the removal. This motion was filed on June 6, 2013. As of this date, defendants have not responded. Pursuant to Local Rule 7.1(c), the Court considers this failure an admission of the merits of the motion.<sup>1</sup>

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<sup>1</sup> "Failure to timely file a response to a motion may, in the Court's discretion, be considered an admission of the merits of the motion." LOCAL RULE 7.1(c).

Accordingly, the Court **GRANTS** plaintiff Andrew Harold Schmitt's motion for remand (Doc. 28) and **REMANDS** this matter to the Circuit Court of Madison County, Illinois.

**IT IS SO ORDERED.**

Signed this 2nd day of October, 2013.

 Digitally signed by  
David R. Herndon  
Date: 2013.10.02  
11:35:56 -05'00'



**Chief Judge**  
**United States District Court**