

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

WILLIAM F. MARTIN, JR.,)	
Plaintiff,)	
)	
v.)	CAUSE NO.: 1:18-CV-349-TLS-PRC
)	
NOBLE COUNTY BOARD OF)	
COMMISSIONERS,)	
Defendant.)	

OPINION AND ORDER

This matter is before the Court on Defendant Noble County Board of Commissioners' Motion for Leave to File Amended Notice of Removal [DE 8] and on Defendant Noble County Board of Commissioners' Motion to Amend Case Caption [DE 9], both filed on November 12, 2018. Plaintiff has not filed a response, and the time to do so has passed.

Plaintiff William F. Martin, Jr. filed his Complaint in the Noble County, Indiana Superior Court on October 10, 2018. Defendant Noble County Board of Commissioners was served with the Summons and Complaint on October 12, 2018.

Defendant filed its Notice of Removal in this Court on October 30, 2018.

Subsequently, Defendant learned that on October 26, 2018, the state court had granted George Gerdes and Lisa Gerdes leave to intervene in this action as Defendants. Accordingly, in the instant motion, Defendant asks for leave to file an Amended Notice of Removal to reflect the presence of Intervenor-Defendants George Gerdes and Lisa Gerdes.

A defendant may freely amend the notice of removal for thirty days after receiving a copy of the state court complaint, or being served, whichever comes first. *Buneta v. Fairmont City, Ill.*, No. 16-CV-794, 2016 WL 6246823, *2 (S.D. Ill. Oct. 26, 2016) (citing 28 U.S.C. § 1446(b)). Because thirty days had not passed from the date Defendant was served with the Complaint (October

12, 2018) at the time Defendant sought leave to file the Amended Notice of Removal (November 12, 2018), no motion was necessary. *See* Fed. R. Civ. P. 6(b). Notably, Plaintiff has not objected to the motion.

Accordingly, the Court **GRANTS** Defendant Noble County Board of Commissioners' Motion for Leave to File Amended Notice of Removal [DE 8] and **ORDERS** Defendant Noble County Board of Commissioners to **FILE** the Amended Notice of Removal on or before **November 30, 2018**.

Pursuant to 28 U.S.C. § 1774, the Court further **ORDERS** Defendant Noble County Board of Commissioners to **FILE** with the Clerk of Court, on or before **December 7, 2018**, a copy of all records and proceedings in the State court.

Because the filing of the State court proceedings, including the State court order granting George Gerdes and Lisa Gerdes leave to intervene as Defendants, should result in the addition of George Gerdes and Lisa Gerdes as Defendants in this action, including in the case caption of the electronic docket, the Court **DENIES without prejudice** Defendant Noble County Board of Commissioners' Motion to Amend Case Caption [DE 9].

So ORDERED this 28th day of November, 2018.

s/ Paul R. Cherry

MAGISTRATE JUDGE PAUL R. CHERRY
UNITED STATES DISTRICT COURT