

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FIRST FARMERS BANK & TRUST)	
(DISMISSED),)	
)	
Plaintiff,)	
)	
v.)	No. 1:22-cv-02323-JPH-MG
)	
COAST OEM, LLC,)	
PATRIOT PORCELAIN LLC,)	
PATRIOT REAL ESTATE LLC,)	
JEFFREY VAN WEELDEN,)	
6TH & MAIN INC.,)	
LAURCON CAPITAL LP,)	
COAST PRODUCTS L.L.C (DISMISSED),)	
1800 EVERGREEN DEVELOPMENT LLC)	
(DISMISSED),)	
TOWNS AND TAYLOR (DISMISSED),)	
JEFFREY VAN WEELDEN,)	
)	
Defendants.)	
)	
PATRIOT REAL ESTATE LLC,)	
)	
Cross Claimant,)	
)	
v.)	
)	
COAST OEM LLC,)	
LAURCON CAPITAL, LP,)	
)	
Cross Defendants.)	
)	
PATRIOT REAL ESTATE LLC,)	
)	
Third Party)	
Plaintiff,)	
)	
v.)	
)	

COAST RE, LLC,)
BRIGGS PLUMBING PRODUCTS, LLC,)
ROBERT EASTER,)
CRAIG HUFF,)
CHUCK DOCKERY,)
AMERICAN INDUSTRIAL BRANDS, LLC,¹)
)
Third Party)
Defendants.)
)
)
COAST OEM, LLC,)
LAURCON CAPITAL, LP)
ROBERT EASTER,)
BRIGGS PLUMBING PRODUCTS, LLC,)
COAST RE, LLC,)
)
Cross-Claimants)
and Third Party)
Plaintiffs,)
)
v.)
)
JEFFREY VAN WEELDEN,)
LEWIS D. DELLINGER,)
PATRIOT REAL ESTATE, LLC,)
PATRIOT PORCELAIN, LLC,)
)
Cross-Claimants)
and Third Party)
Defendants.)

ORDER ON SUPPLEMENTAL BRIEFING

This case was removed here by American Industrial Brands, LLC, a third-party defendant in the underlying state-court case. Dkt. 1. Patriot Real Estate, LLC has filed a motion to remand the case to state court, arguing the

¹ The **Clerk is directed** to update the docket to include American Industrial Brands, LLC as a Third Party Defendant. See dkt. 12 at 2; dkt. 34 at 2.

removal was untimely and that there was no bad faith to excuse the defect.

Dkts. 36, 37.

The Supreme Court has held that "a third-party counterclaim defendant is not a 'defendant' who can remove" under the removal statute, 28 U.S.C. § 1441(a). *Home Depot U. S. A., Inc. v. Jackson*, 139 S. Ct. 1743, 1750 (2019). The Court also opined that § 1441(a) "does not permit removal based on counterclaims at all, as a counterclaim is irrelevant to whether the district court had 'original jurisdiction' over the civil action." *Id.* at 1748. No party cited *Home Depot* in their briefs, *see* dkts. 37, 39, 50, nor was it discussed in the notice of removal, dkt. 1 at 8–9.

To aid the Court in its decision on whether to remand this case, the parties are **ORDERED** to file supplemental briefing on the applicability of the *Home Depot* case. Briefs shall not exceed five pages and are due by **February 8, 2023**.

The Clerk is also **directed** to update the docket to include American Industrial Brands, LLC as a Third Party Defendant.

SO ORDERED.

Date: 1/18/2023

Distribution:

All Electronically Registered Counsel

James Patrick Hanlon

James Patrick Hanlon
United States District Judge
Southern District of Indiana