

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.	)	
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PATRIOT REAL ESTATE LLC,	)	
	)	
Cross Claimant,	)	
	)	
v.	)	
	)	
COAST OEM LLC,	)	
LAURCON CAPITAL, LP,	)	
	)	
Cross Defendants.	)	
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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,<sup>1</sup> )  
 )  
 Third Party )  
 Defendants. )

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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

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<sup>1</sup> 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  
United States District Judge  
Southern District of Indiana