

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
BOWLING GREEN DIVISION**

**CIVIL ACTION NO. 1:13-CV-00048-JHM**

**KONRAD GOESS-SAURAN**

**PLAINTIFF**

**V.**

**JAMES S. FALLER, II, TRUSTEE OF  
THE TANYA FALLER IRREVOCABLE TRUST, ET AL.,**

**DEFENDANTS**

**ORDER**

This matter is before the Court upon the recommendation of the Magistrate to dismiss the claims made on behalf of the Tanya Faller Irrevocable Trust because those claims are being asserted here by James S. Faller, II, who is not licensed to practice law, and on a Motion to Remand filed by the Plaintiff, which is ripe for decision. [DN 6].

James S Faller, II, acting pro se, filed what he called a “Verified Civil Rights Complaint & Removal” which caused the removal of a state court action in which he was not a party. The Tanya Faller Irrevocable Trust is the Defendant below and James S. Faller, II, is the Trustee. The Trust was represented by counsel below. The Magistrate Judge correctly concludes that Mr. Faller, acting pro se, cannot represent the interests of the Trust in this removal action. The Magistrate Judge recommends dismissal, without prejudice, of the claims asserted on behalf of the Trust. Instead, the Court finds that remand is the appropriate action.

As argued by the Plaintiff, in its motion to remand, the underlying action was immediately removable when filed and thus, the Notice of Removal was not timely filed. Therefore, this action is hereby **remanded** to the Russell Circuit Court. All other pending motions are **moot**.

The Court finds that removal of this action was not justified and that Plaintiff is entitled to

recover its costs. Counsel seeks \$1000 as a reasonable fee, however, counsel is directed to file an affidavit in support of his request **within 10 days of the date of entry of this order**, itemizing his time and expenses in litigating this motion to remand.

**So ordered.**



**Joseph H. McKinley, Jr., Chief Judge  
United States District Court**

August 13, 2013

cc: counsel of record