

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE**

MARY MINTON EITEL *et al.*

PLAINTIFFS

v.

CIVIL ACTION NO. 3:11-CV-445-M

GUARDIACARE SERVICES, INC.

DEFENDANT

MEMORANDUM OPINION

Plaintiffs Mary Minton Eitel and John J. Robbins, Jr., filed a “notice of removal” with this Court. They are seeking to remove Jefferson Circuit Court case number 11-CI-00544 to this Court. They state that removal is appropriate “due to the circumstances of this case and the Federal rights and laws involved in the subject matter of the action.” Upon review of the notice of removal, the Court has determined that it lacks subject-matter jurisdiction over this action.

Removal of a civil action is governed by 28 U.S.C. § 1441. This section states in relevant part:

a) Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, ***may be removed by the defendant or the defendants***, to the district court of the United States for the district and division embracing the place where such action is pending. . . .

Id. (emphasis added). “As the statutory language makes plain, only ‘the defendant or the defendants’ may remove under § 1441(a).” *First Nat’l Bank of Pulaski v. Curry*, 301 F.3d 456, 461 (6th Cir. 2002).

The state court record lists Eitel and Robbins as plaintiffs, not defendants. Accordingly,

their attempted removal is ineffective, and by separate Order the Court will dismiss this action for lack of subject-matter jurisdiction.

Date:

cc: Plaintiffs, *pro se*
Counsel of Record for Defendant, Daniel E. Murner/Elizabeth Winchell, Landrum & Shouse LLP, P.O.
Box 951, Lexington, KY 40588-0951
Clerk, Jefferson Circuit Court (Civil Action Number 11-CI-00544)

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