

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

SHON'QUELL LEBLANC

CIVIL ACTION

VERSUS

NO. 20-3157

GREGORY Y. HARDY, ET AL.

SECTION "R" (3)

ORDER AND REASONS

Before the Court is defendant USAA Casualty Insurance Company's ("USAA") motion for reconsideration¹ of the Court's order² remanding this case to state court. USAA filed the motion in its capacity as the excess liability insurer of defendant Janet Blocker. Plaintiff Shon'Quell LeBlanc opposes the motion.³

This case arises out of an automobile-pedestrian crash. On January 15, 2020, plaintiff filed suit in state court against defendants Gregory Hardy, Janet Blocker, and USAA, as the primary liability insurer of Blocker and Hardy ("USAA-Primary").⁴ On June 25, 2020, plaintiff amended her state-

¹ R. Doc. 25.

² R. Doc. 23.

³ R. Doc. 28.

⁴ R. Doc. 1-3 at 1-5.

court complaint to add USAA as a defendant in its capacity as the excess liability insurer of Blocker (“USAA-Excess”).⁵

On November 19, 2020, defendants Hardy, Blocker, and USAA-Primary⁶ removed the case to federal court, contending that the diversity requirements of 28 U.S.C. § 1332(a) were met.⁷ Defendants attached to their notice of removal an affidavit by Blocker, stating that, at the time of the accident, she was living only temporarily in New Orleans.⁸ She attested that her permanent home was in Houston, Texas.⁹

On April 26, 2021, plaintiff filed a motion to strike Blocker’s affidavit and remand the case for lack of subject-matter jurisdiction.¹⁰ Plaintiff asserted that Blocker was a nondiverse party, living at a residential facility in New Orleans, and maintaining a phone number bearing a New Orleans area code.¹¹ Defendants Hardy, Blocker, and USAA-Primary initially opposed

⁵ *Id.* at 10-11.

⁶ In its notice of removal and subsequent motions, USAA-Primary did not specify that it was proceeding only in its primary-insurer capacity, *i.e.*, as distinct from USAA-Excess. But USAA-Excess has had separate counsel since removal, *see* R. Doc. 4 at 2, and its counsel did not file or sign onto any documents in this case prior to filing the present motion for reconsideration.

⁷ R. Doc. 1.

⁸ R. Doc. 1-1.

⁹ *Id.* ¶ 21.

¹⁰ R. Doc. 15.

¹¹ R. Doc. 15-1 at 1-2.

plaintiff's motion,¹² but later withdrew their opposition.¹³ USAA-Excess, represented by separate counsel,¹⁴ never responded to the motion for remand, nor otherwise showed that plaintiff's claims against it vested this Court with subject-matter jurisdiction. On May 28, 2021, the Court granted plaintiff's motion, and remanded the matter to state court based on a lack of subject-matter jurisdiction.¹⁵

Federal law provides that “[a]n order remanding a case to the State court from which it was removed is not reviewable *on appeal or otherwise*.” 28 U.S.C. § 1447(d) (emphasis added). Indeed, “[n]ot only may the order not be appealed, but the district court itself is divested of jurisdiction to reconsider the matter.” *New Orleans Pub. Serv., Inc. v. Majoue*, 802 F.2d 166, 167 (5th Cir. 1986). Therefore, even if the court “later decides the order was erroneous, a remand order cannot be vacated even by the district court.” *Id.*; see also *Loeb v. Vergara*, No. 18-3165, 2018 WL 3374162, at *1 (E.D. La. July 11, 2018) (denying defendant's motion to reconsider a remand based on lack of subject-matter jurisdiction).

¹² R. Doc. 18.

¹³ R. Doc. 22.

¹⁴ R. Doc. 4 at 2.

¹⁵ R. Doc. 23.

Accordingly, upon the entry of its remand order, this Court was “divested of jurisdiction to reconsider the matter.” *New Orleans Pub. Serv., Inc.*, 802 F.2d at 167. The Court thus lacks jurisdiction to reconsider its remand order.

For the foregoing reasons, USAA-Excess’s motion to reconsider is DISMISSED for lack of jurisdiction.

New Orleans, Louisiana, this 10th day of September, 2021.


SARAH S. VANCE
UNITED STATES DISTRICT JUDGE