

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

CHRISTY M. WEISER
AND GREG PIERSON

CIVIL ACTION

VERSUS

NO. 11-558-BAJ-CN

SHAW GROUP ENVIRONMENTAL &
INFRASTRUCTURE, INC., ET AL

RULING

The Court has carefully considered the plaintiff's motion to remand (doc. 3), the record, the law applicable to this action, and the Report and Recommendation of United States Magistrate Judge Christine Noland dated September 15, 2011 (doc. 12). The Court has also considered the objection to the Report and Recommendation, filed by defendant, Shaw Environmental and Infrastructure, Inc. (doc. 14) and adopted by the State of Louisiana, Office of Community Development (doc. 15).

The Court hereby approves the report and recommendation insofar as it relates to the propriety of remand and adopts that portion of the report and recommendation as the Court's opinion herein. The Court, however, declines to award fees incurred as a result of removal.¹

¹As the Magistrate Judge noted, the removal statute provides that "[a]n order remanding the case *may* require payment of just costs and any actual expenses, including attorney's fees, incurred as a result of the removal" (doc. 12, p. 5 (quoting, 28 U.S.C. § 1447(c))). Thus, the award of costs and fees lies within the discretion of the Court. Moreover, though the Court finds that defendant's removal was improper, the Court does not conclude that it was objectively unreasonable so as to merit sanction pursuant to 28 U.S.C. §1447(c).

Accordingly, the motion for remand (doc. 3) filed by plaintiffs, Christy M. Weisner and Greg Pierson, is granted only insofar as it seeks remand of this matter to the 19th Judicial District Court, Parish of East Baton Rouge, State of Louisiana, for further proceedings. The motion is denied otherwise.

Baton Rouge, Louisiana, October 31, 2011.

A handwritten signature in blue ink, appearing to read "Brian A. Jackson".

BRIAN A. JACKSON, CHIEF JUDGE
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA