

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

BLAKE PERRITT, ET AL.

CIVIL ACTION

VERSUS

NO.: 3:12-cv-00253-BAJ-RLB

WESTLAKE VINYL COMPANY, LP,
ET AL.

LEAD CASE

C/W 3:12-cv-00254-BAJ-RLB,
3:13-cv-00209-BAJ-RLB,
3:13-cv-00253-BAJ-RLB,
3:13-cv-00254-BAJ-RLB,
3:13-cv-00268-BAJ-RLB,
3:13-cv-00269-BAJ-RLB,
3:13-cv-00270-BAJ-RLB

ORDER

Before the Court are two Motions to Remand filed in cases consolidated for pretrial management with civil action 3:12-cv-00253.¹ The first was filed by Plaintiff William Harden in civil action 3:13-cv-00268 (Doc. 4); the second was filed by Plaintiffs Linda Martin, Kela Collins, and others in civil action 3:13-cv-00253 (Doc. 6). In each case, the Defendants—Westlake Vinyls Company, LP and Westlake Chemical Corporation—oppose the remand request. (See 3:12-cv-00253 Doc. 26 (Defendants' Opposition to William Harden's Motion to Remand); 3:13-cv-00253 Doc. 7 (Defendants' Opposition to Linda Martin's Motion to Remand)).

¹ On May 16, 2012, this Court consolidated civil action 3:12-cv-00254 with the lead case in this matter, *Perritt, et al. v. Westlake Vinyls Company, et al.*, No. 3:12-cv-00253. (See 3:12-cv-00253 Doc. 3). Later, on April 5, 2013, this Court consolidated civil action 13-cv-00209 with the lead case. (3:12-cv-00253 Doc. 18). Finally, on May 28, 2013, this Court consolidated civil actions 3:13-cv-00253, 3:13-cv-00254, 3:13-cv-00268, 3:13-cv-00269, and 3:13-cv-00270 with the lead case. (3:12-cv-00253 Doc. 20). In its May 28 Order, the Court explained that these cases are “consolidated for pretrial management with CV 12-253,” and that the Court “will determine at a later appropriate time whether any or all of these cases will be tried separately, as provided by Rule 42(b).” (*Id.* at p. 2).

In each of the matters under consideration here, the Defendants' arguments in opposition to remand rely extensively on this Court's February 26, 2013 Ruling and Order denying remand in civil actions 3:12-cv-00253 and 3:12-cv-00254. (*See generally* 3:12-cv-00253 Doc. 26; 3:13-cv-00253 Doc. 7; *see also* 3:12-cv-00253 Doc. 14 (Order Denying Plaintiffs' Motions to Remand)). However, as indicated by the Defendants in their opposition memorandums, this Court's prior Order denying remand *incorrectly* determined "that the jurisdictional minimum [for establishing subject matter jurisdiction under 28 U.S.C. § 1332 was] satisfied by aggregating the potential recoveries of putative class members," (3:13-cv-00253 Doc. 7 at p. 18 n.40; *see also* 3:12-cv-00253 Doc. 26 at pp. 15–16). *See Grant v. Chevron Phillips Chem. Co.*, 309 F.3d 864, 873 (5th Cir. 2002) ("We know . . . that in class actions, we separately test the amount in controversy of each class member, whether class representative or rank and file. We also know . . . that we are not to aggregate the potential recovery of class members." (footnotes omitted)).

Accordingly,

IT IS ORDERED that the Court's February 26, 2013 **RULING AND ORDER (Doc. 14)** denying remand in civil actions **3:12-cv-00253** (*Perritt, et al. v. Westlake Vinyls Company, et al.*), and **3:12-cv-00254** (*Hollins, et al. v. Westlake Chemical Corporation, et al.*) is **VACATED** in its entirety. A separate order will follow that reconsiders the plaintiffs' requests for remand in civil actions 3:12-cv-00253 and 3:12-cv-00254. *See Simon v. Wal-Mart Stores, Inc.*, 193 F.3d 848, 850

(5th Cir. 1999) (“Federal courts may examine the basis of jurisdiction sua sponte”); *Free v. Abbott Labs., Inc.*, 164 F.3d 270, 272 (5th Cir. 1999) (“[A] federal court must always be satisfied that subject matter jurisdiction exists and must even raise the issue sua sponte”).

IT IS FURTHER ORDERED that because the Defendants’ arguments against remand in civil actions **3:13-cv-00253** and **3:13-cv-00268** rely extensively on the Court’s reasoning in its now-vacated February 26, 2013 Ruling and Order, the Defendants shall be allowed to **REVISE** their Memorandums in Opposition to the Plaintiffs’ requests for remand, if necessary. The Defendants shall file any revised Memorandums in Opposition no later than **November 21, 2013**.

IT IS FURTHER ORDERED that the Clerk of Court enter this Order in the docket for the lead case in this matter (**3:12-cv-00253**), and in the case-specific dockets for civil actions **3:12-cv-00254**, **3:13-cv-00253**, and **3:13-cv-00268**.

Baton Rouge, Louisiana, this 31st day of October, 2013.



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