

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

GREGORY ALLEN CAMPBELL  
VERSUS  
DOLGENCORP, LLC

CIVIL ACTION

NO.:16-00357-BAJ-RLB

RULING AND ORDER

Before the Court is the United States Magistrate Judge's Report and Recommendation (Doc. 7), pursuant to 28 U.S.C. § 636(b)(1), recommending that Plaintiff's **Motion to Remand (Doc. 4)** be granted, and that this case be remanded to the 19th Judicial District Court of East Baton Rouge Parish, Louisiana. The Magistrate Judge also recommended that, pursuant to 28 U.S.C. § 1447(c), Defendant pay to Plaintiff costs and expenses incurred as a result of the removal in the amount of \$500. (Doc. 7 at pp. 7–8).

The Magistrate Judge's Report and Recommendation specifically notified the parties that, pursuant to 28 U.S.C. § 636(b)(1), they had fourteen (14) days from the date they received the Report and Recommendation to file written objections to the proposed findings of fact, conclusions of law, and recommendations therein. (Doc. 7 at p. 1).

Although Defendant did not file an opposition to Plaintiff's Motion to Remand, Defendant filed an objection to the Magistrate Judge's Report and Recommendation. (Doc. 10). Defendant does not object to the recommendation that the matter be remanded for lack of diversity jurisdiction, but objects to the recommendation that

the Court award costs and expenses to Plaintiff pursuant to 28 U.S.C. § 1447(c). (*Id.* at p. 1).

In the Motion to Remand, Plaintiff explicitly requested costs and expenses pursuant to 28 U.S.C. § 1447(c) for Defendant's improper removal of this action. (Doc. 4-1 at p. 5). Knowing costs and expenses may be assessed against it, Defendant failed to file an opposition. The objection presently before the Court is merely a *post hac* opposition to Plaintiff's request for costs and expenses. However, "[t]he general rule is that issues raised for the first time in objections to a magistrate judge's report are deemed not properly before the district court . . ." *Rodriguez v. Apfel*, 139 F.3d 898 (5th Cir. 1998); *see also Warren v. Astrue*, No. 6:09-CV-417, 2011 WL 3444268, at \*3 (E.D. Tex. Aug. 5, 2011) (declining to consider arguments in an objection that were not before the Magistrate Judge). Because the Magistrate Judge did not have a fair opportunity to consider Defendant's arguments, the objection shall not be considered.

Having carefully considered Plaintiff's Petition and the Motion to Remand, the Court approves the Magistrate Judge's Report and Recommendation, and hereby adopts the findings of fact, conclusions of law, and recommendations therein.

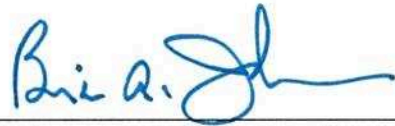
Accordingly,

**IT IS ORDERED** that the **Magistrate Judge's Report and Recommendation (Doc. 7)** is **ADOPTED** as the Court's opinion herein.

**IT IS FURTHER ORDERED** that Plaintiff's **Motion to Remand (Doc. 4)** is **GRANTED** and this case is **REMANDED** to the 19th Judicial District Court, East Baton Rouge Parish, Louisiana.

**IT IS FURTHER ORDERED** that, pursuant to 28 U.S.C. § 1447(c), Defendant is ordered to pay to Plaintiff costs and expenses incurred as a result of the removal in the amount of \$500, **within 14 days** of the issuance of this Ruling and Order.

Baton Rouge, Louisiana, this 29<sup>th</sup> day of August, 2016.



---

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