

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

LEROY SEXTON

CIVIL ACTION

VERSUS

NO. 17-482-JWD-RLB

EXXON MOBIL CORPORATION,
ET AL.

OPINION

After independently reviewing the entire record in this case and for the reasons set forth in Magistrate Judge's Report dated September 15, 2017, to which an objection was filed:

IT IS ORDERED that the Plaintiff's Motion to Remand (R. Doc. 18) is **DENIED**. Though the Court is sympathetic to the policy concerns raised by the Plaintiff and believes the "forum defendant rule" to be a tad hyper-technical in this case, the Court finds that 28 U.S.C. § 1441(b)(2) is clear and unambiguous; it prohibits removal of an action only "if any of the parties in interest *properly joined and served as defendants* is a citizen of the State in which such action is brought." *Id.* (emphasis added). Because Defendant Zachary was not "properly joined and served" at the time of removal, the plain language of § 1441(b)(2) does not require remand. Perhaps more importantly, even if there were ambiguity in the statute, the overwhelming authority in this circuit supports the Magistrate Judge's position. (*See* R&R, Doc. 42 at 5–6; Defendant's Reply to Objections, Doc. 47 at 3–4.) As a result, the Plaintiff's objections are **OVERRULED**.

Signed in Baton Rouge, Louisiana, on January 3, 2018.



JUDGE JOHN W. deGRAVELLES
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA