

## UNITED STATES DISTRICT COURT

## MIDDLE DISTRICT OF LOUISIANA

SAMUEL LOVE

CIVIL ACTION

VERSUS

NATIONAL CASUALTY CO., ET AL.

No.: 17-00626-BAJ-RLB

RULING AND ORDER

Before this Court is the United States Magistrate Judge's **Report and Recommendation (Doc. 9)** pursuant to 28 U.S.C. § 636(b)(1). The Report and Recommendation addresses the Motion to Remand (Doc. 5) filed by Plaintiffs. The Magistrate Judge, after noting that Defendants had not opposed the motion, recommended that Plaintiff's motion be granted because two Defendants, Midwest Logistics Systems, Ltd. ("Midwest") and Timothy Grendahl, had not consented to removal despite proper service of Defendants under the Louisiana Long-Arm Statute. (Doc. 9 at p. 7–8). Specifically, the Magistrate Judge concluded that service is perfected under Louisiana law when it is sent by registered or certified mail to a party or agent of service regardless of whether there is a signed return receipt. (*Id.* at p. 6 (citing *McFarland v. Dippel*, 1999-0584 (La. App. 1 Cir. 3/31/00); 756 So. 2d 618, 622)).

The Report and Recommendation 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. 9 at p. 1). After not opposing the motion to remand, Defendant, National Casualty Co. ("National"), timely filed an

objection to the Report and Recommendation. National argues that it was only put on notice about the failure of the other Defendants to receive service after the time to obtain consent had lapsed because no affidavit of service of process was ever filed in the Nineteenth Judicial District Court. (Doc. 10 at p. 1).

National's objection is unpersuasive. This Court has held that "the absence of proof of service will not relieve removing defendants from obtaining consent to removal from all properly served defendants." *Kelly v. Arch Ins. Co.*, No. 15-00772, 2016 WL 3951424, at \*6 (M.D. La. June 9, 2016), *report and recommendation adopted*, No. 15-00772, 2016 WL 3951391 (M.D. La. July 21, 2016). Nation does not claim—nor is there any indication—that service of process was sent to the incorrect address. *See Id.*

Having carefully considered the underlying Complaint, the instant motion, and related filings, the Court approves the Magistrate Judge's Report and Recommendation, and hereby adopts its findings of fact, conclusions of law, and recommendation.

Accordingly,

**IT IS ORDERED** that the **Magistrate Judge's Report and Recommendation (Doc. 9)** is **ADOPTED** as the Court's opinion herein.

**IT IS FURTHER ORDERED** that Plaintiff's **Motion to Remand (Doc. 5)** is **GRANTED**.

Baton Rouge, Louisiana, this 19<sup>th</sup> day of February, 2018.



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