

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAKE CHARLES DIVISION**

**MERCEDEE LEVIAS ET AL**

**CASE NO. 2:21-CV-02628**

**VERSUS**

**JUDGE JAMES D. CAIN, JR.**

**STATE FARM MUTUAL AUTOMOBILE  
INSURANCE CO ET AL**

**MAGISTRATE JUDGE KAY**

**JUDGMENT**

The Report and Recommendation of the Magistrate Judge (doc. 15) having been considered, together with the written objections thereto filed with this Court, and, after a *de novo* review of the record, the undersigned finds that the Magistrate Judge's Report and Recommendation reaches the right conclusion. However, there is no evidence in the record that Plaintiff's counsel purposefully concealed the dismissal of State Farm Mutual Automobile Insurance Company and Caleb Murry. What is clear, is that counsel for State Farm prepared the Motion for Partial Dismissal and filed same into the state court record. The state court Clerk of Court failed to provide notice of the dismissal. It further appears that when the Motion for Dismissal of State Farm and Murry was filed, Defendants, United Financial Casualty Insurance Company ("United") and Progressive Security Insurance Company ("Progressive"), were not served with the dismissal because service was not requested State Farm upon filing. Thus, Defendants, United and Progressive, were not given due process because they were not provided notice of dismissal of the non-diverse party. However, undersigned will not impute the fault of State Farm to Plaintiff's counsel for failing to request service. Accordingly,

**IT IS ORDERED** that Plaintiff's Motion to Remand (doc. 7) is **DENIED**.

**THUS DONE AND SIGNED** in Chambers this 2nd day of August, 2022.



**JAMES D. CAIN, JR.**  
**UNITED STATES DISTRICT JUDGE**