

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

**LINDA FAYE SMITH AND LARRY
SMITH**

CIVIL ACTION NO. 13-2368

VERSUS

JUDGE ROBERT G. JAMES

WAL-MART LOUISIANA, LLC

MAG. JUDGE KAREN L. HAYES

MEMORANDUM ORDER

On September 5, 2013, Magistrate Judge Karen L. Hayes issued a Memorandum Ruling [Doc. No. 12] denying Plaintiffs' Motion to Remand [Doc. No. 5].

Pending before the Court is Plaintiffs' "Objection to Memorandum Ruling" [Doc. No. 13], which the Court considers to be an appeal in accordance with FED. R. CIV. P. 72(a) and L.R. 74.1W. On September 25, 2013, Defendant filed an Opposition [Doc. No. 15], and Plaintiffs filed a Reply [Doc. No. 16] on October 1, 2013.

Motions to remand are non-dispositive pre-trial matters.¹ Under 28 U.S.C. § 636(b)(1)(A) and Rule 72(a), the Court reviews a magistrate judge's rulings on non-dispositive matters only to determine whether they are clearly erroneous or contrary to law.

Having conducted a thorough review of the entire record, the Court finds that, under the

¹ The Court is aware that other courts have held that motions to remand are dispositive motions and review a magistrate judge's rulings on them *de novo*. However, the Fifth Circuit has not addressed the standard of review to be applied to a district court's review of a magistrate judge's ruling on a motion to remand. This Court has adhered to the view that a motion to remand is a non-dispositive pre-trial matter and applies the clearly erroneous/contrary to law standard of review. *Jenkins v. Wal-Mart Stores, Inc.*, CIV.A. 12-0880, 2012 WL 3579883 (W.D. La. Aug. 17, 2012). However, the Court would reach the same conclusions in this case under a *de novo* review.

facts and circumstances of this case, the Magistrate Judge's order was not clearly erroneous nor contrary to law. Therefore, Plaintiffs' appeal [Doc. No. 13] is DENIED, and the Magistrate Judge's Ruling [Doc. No. 12] is AFFIRMED.

MONROE, LOUISIANA, this 29th day of October, 2013.


ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE