

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

CHARLIE GRICE

CIVIL ACTION NO. 17-cv-1434

VERSUS

CHIEF JUDGE HICKS

ROOSEVELT TONEY, ET AL

MAGISTRATE JUDGE HORNSBY

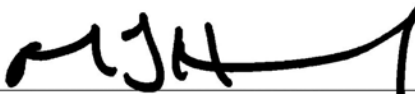
MEMORANDUM ORDER

Charlie Grice filed this civil action in state court, and it was removed to this court based on an assertion of diversity jurisdiction. The removing defendants acknowledge that the presence of the State of Louisiana, through the Department of Transportation and Development (“DOTD”), would destroy diversity, but they assert that its presence should be ignored pursuant to the improper joinder doctrine outlined in Smallwood v. Illinois Central RR Co., 385 F.3d 568 (5th Cir. 2004). Even if a plaintiff does not challenge an improper joinder plea, the court is obligated to determine subject matter jurisdiction, including whether a party is improperly joined, on its own initiative. Gasch v. Hartford Acc & Indem. Co. 491 F.3rd 278, 281 (5th Cir. 2007).

Accordingly, if Plaintiff contests the assertion that DOTD was improperly joined, he must file a motion to remand, supported by a memorandum, by **December 4, 2017** and explain why there is a reasonable basis to predict that state law would allow Plaintiff to recover against DOTD. If Plaintiff timely files a motion to remand, it will be noticed for briefing so that the removing defendants can respond and attempt to meet their burden on the

improper joinder issue. If Plaintiff does not timely file a motion to remand and challenge the improper joinder plea, the court will consider Plaintiff to concede the point, DOTD will be dismissed, and the case will proceed in this court.

THUS DONE AND SIGNED in Shreveport, Louisiana, this 7th day of November, 2017.



Mark L. Hornsby
U.S. Magistrate Judge