

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

JEDIDIAH SCRIMSHAW
:
:
v. : Civil Action No. DKC 19-0983
:
JAMIE LYNN SCHAFFERS, et al.
:
:

MEMORANDUM OPINION

Presently pending is a Motion to Remand filed by Plaintiff. ECF No. 13. Removing defendants filed a response in opposition on May 3, 2019. ECF No. 16. For the reasons that follow, the motion to remand will be granted.

Plaintiff Jedidiah Scrimshaw (of Florida) filed suit in the Circuit Court for Baltimore County against Jamie Lynn Stivers (of Maryland), Best Care Ambulance, Inc. (of Maryland), Amanda Collins (of Maryland), Patrick Nolan (of Pennsylvania), and Worldwide Equipment Leasing, Inc. (of Kentucky). At some point, Worldwide Equipment Leasing, Inc. was dismissed. An Amended Complaint added Valicor Environmental Services, LLC. The amended complaint asserts claims for negligence and vicarious liability arising from motor vehicle collisions that happened on May 18, 2016, on the Baltimore beltway. Defendant Valicor Environmental Services, LLC f/k/a Spirit Services, Inc. removed the action on April 1, 2019,

on the basis of diversity of citizenship.¹ The notice of removal recited the purported citizenship of Valicor and stated that it is the employer of Mr. Nolan, but otherwise is silent about any other defendant, the status of service at the time of removal, or their states of citizenship. By the time of removal, other defendants had been served,² and, in the original response to the court's standing order, removing defendant stated that the reason consent was not sought was that they were Maryland citizens. ECF No. 11. Then, in response to the court's order to supplement, ECF No. 12, the removing defendant now recites that they "consent." ECF No. 14.

28 U.S.C. § 1441(b)(2) provides:

A civil action otherwise removable solely on the basis of jurisdiction under section 1332(a) of this title may not be removed 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.

¹ Valicor, an LLC, states that it purchased a part of Spirit Services, Inc., but that Spirit is still in existence and is the proper party in this case. Accordingly, Valicor has not identified all of its members and their states of citizenship as directed. Instead, counsel claims that Spirit is a citizen of North Carolina. ECF No. 14.

² The state court record reflects that Jamie Lynn Schaffers was served February 22, 2019, Best Care Ambulance was served December 13, 2018, and Amanda Collins was served November 9, 2018.

The presence of Maryland citizens, who were properly joined and served prior to removal, simply precludes removal, whether they consent or not. Plaintiff's motion to remand, filed April 16, 2019, seeks remand on two grounds, the presence of a forum defendant and the absence of consent. Even if the belated statement from counsel for the removing defendant that the other defendants now consent is sufficient to constitute valid consent, there is no challenge to the fact that at least one, and probably three, defendants properly joined and served prior to removal are citizens of Maryland. Consequently, the motion to remand will be granted and the case remanded to the Circuit Court. A separate order will follow.

/s/

DEBORAH K. CHASANOW
United States District Judge