

UNITED STATES DISTRICT COURT  
 DISTRICT OF MASSACHUSETTS

ELIZABETH A. MAHER,	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 11-10236-MLW
	)	
TOWN OF HARWICH CONSERVATION	)	
COMMISSION, DEAN KNIGHT, LARA	)	
SLIFKA, WALTER DIGGS, JANE	)	
FLEMING, RON SAULNIER,	)	
AMY MORRIS, and BRADFORD CHASE,	)	
Defendants.	)	

MEMORANDUM AND ORDER

WOLF, D.J.

June 22, 2011

On December 17, 2010, plaintiff Elizabeth Maher filed a three-count complaint in Barnstable Superior Court against defendants Town of Harwich Conservation Commission, Dean Knight, Lara Slifka, Walter Diggs, Jane Fleming, Ron Saulnier, Amy Morris, and Bradford Chase. On February 11, 2011, defendants timely filed a notice of removal pursuant to 28 U.S.C. §§1441 and 1446, stating that this court has jurisdiction pursuant to 28 U.S.C. §1331 because Count III of the complaint raises claims under the United States Constitution.

The parties voluntarily stipulated to the dismissal of plaintiff's constitutional claims, leaving in dispute only the state law claims raised in Counts I and II of the complaint. Accordingly, as the parties agree, this court no longer has jurisdiction over this case, and the parties' joint motion for remand is being allowed. However, defendants' motion to extend the deadline by which they must answer the complaint upon remand is

being denied, because a federal court cannot issue an order that is binding on a state court upon remand. See Christopher v. Stanley-Bostitch, Inc., 240 F.3d 95, 100 (1st Cir. 2001).

Accordingly, it is hereby ORDERED that:

1. The parties' Partial Stipulation of Dismissal with Prejudice and Request for Remand (Docket No. 4) is ALLOWED.

2. Defendants' Assented-to Motion for Extension of Time to File Answer to Complaint (Docket No. 5) is DENIED without prejudice to being presented, if necessary, to the state court.

3. The parties' Joint Motion to Stay Proceedings Pending Remand to State Court (Docket No. 6) is MOOT.

4. This case is REMANDED to the Barnstable Superior Court of the Commonwealth of Massachusetts.

/s/ Mark L. Wolf  
UNITED STATES DISTRICT JUDGE