

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHER DISTRICT OF MISSISSIPPI
WESTERN DIVISION

LINDA SAMPSON AND DALE SAMPSON,
INDIVIDUALLY AND AS WRONGFUL DEATH
BENEFICIARIES OF RIVERS SAMPSON, DECEASED,
AND ON BEHALF OF ALL WRONGFUL DEATH
BENEFICIARIES OF RIVERS SAMPSON, DECEASED

PLAINTIFFS

VS. CIVIL ACTION NO. 5:15-cv-84(DCB)(MTP)

PANGBORN CORPORATION, ET AL.

DEFENDANTS

ORDER

This case is before the Court to address the plaintiffs' request that their Motion for Remand be given the Court's earliest possible attention. On September 3, 2015, defendants Lone Star Industries, Mine Safety Appliances Company, and Mississippi Silica Company ("the removing defendants") filed a Notice of Removal of this case from the Circuit Court of Jefferson County, Mississippi.

The removing defendants claim that although this case was filed in the state court on October 20, 2014, it only became removable on August 7, 2015, "when Defendants received documents evidencing Plaintiffs' unequivocal and unconditional voluntary abandonment of their claims against all parties except the three (3) remaining Defendants, all of whom are diverse." (Notice of Removal, ¶ 9).

In their motion to remand, the plaintiffs assert that defendant E.D. Bullard Company ("Bullard") "is not a nominal defendant" (Motion to Remand, ¶ 3), thus implying that there are

four remaining defendants. The plaintiffs further assert that Bullard's failure to consent to or join in the Notice of Removal, as required by the "rule of unanimity," creates a defect in the Notice of Removal. (Emergency Motion to Remand, ¶¶ 3-4).

The Jefferson County Circuit Court has set the trial of this case for October 6, 2015. The deadline for the defendants' response to the plaintiffs' motion to remand is September 23. The plaintiffs' rebuttal is due seven days after the defendants' response, but of course the plaintiffs may file their rebuttal before the deadline. The Court will give this matter its earliest possible attention in light of the October 6 trial date.

SO ORDERED, this the 21st day of September, 2015.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE