**UNITED STATES DISTRICT COURT**
**EASTERN DISTRICT OF MISSOURI**
**SOUTHEASTERN DIVISION**

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| **THE ESTATE OF BOBBY SUE LAWSON, By SHERRY C. PRUIETT and PAMELA A. HALE, Co-Guardians and Conservators,** | ) | |
| **Petitioners,** | ) | **Case No. 1:14CV00178 ACL** |
| **vs.** | ) | |
| **JOHN MURPHPY and LINDA MURPHY,** | ) | |
| **Respondents.** | ) | |

## MEMORANDUM AND ORDER

This matter is before the Court on Petitioners' Motion for Remand to State Court. (Doc. # 7.) This case has been assigned to the undersigned United States Magistrate Judge pursuant to the Civil Justice Reform Act and is being heard by consent of the parties. See 28 U.S.C. § 636(c).

Petitioners originally filed this unlawful detainer action in the Circuit Court of Dunklin County, Missouri. Respondents filed an Answer and Counterclaim. On December 8, 2014, Respondents removed the lawsuit to this court on the basis of diversity jurisdiction. (Doc. # 1.) Respondents allege in their Notice of Removal that Petitioners are residents of Texas while Respondents are Missouri residents. (Id.) Respondents further allege that the amount in controversy requirement is met by their counterclaim against Petitioners. (Id.)

On December 17, 2014, Petitioners filed their Motion to Remand. (Doc. # 7.) Petitioners argue that Respondents have improperly removed this action for at least four individually sufficient reasons: (1) there is no diversity of citizenship; (2) Respondents are in-state respondents; (3) the amount in controversy requirement has not been met; and (4) Federal Courts do not hear

"summary" actions such as this unlawful detainer claim. Petitioners have also filed a Motion to Dismiss Counterclaim and to Strike Answer and Affirmative Defenses. (Doc. # 9.)

On January 14, 2015, the parties filed an Agreed Order to Remand, in which they state that they agree to the remand of this matter to the Circuit Court of Dunklin County, Missouri. (Doc. # 12.) Petitioners subsequently filed "Plaintiffs' Consent to Remand," in which they state they consent to the remand of this action to the Circuit Court of Dunklin County, Missouri. (Doc. # 13.)

Respondents, as the party seeking removal and opposing remand, have the burden of establishing federal subject matter jurisdiction. Cent. Iowa Power Coop. v. Midwest Indep. Transmission Sys. Operator, 561 F.3d 904, 912 (8th Cir. 2009); In re Business Men's Assurance Co., 992 F.2d 181, 183 (8th Cir. 1993).

Respondents have not attempted to meet their burden to establish federal subject matter jurisdiction, and have instead consented to the remand of this matter to state court.

Accordingly,

**IT IS HEREBY ORDERED** that Petitioners' Motion to Remand (Doc. # 7) be and it is **granted**.

**IT IS FURTHER ORDERED** that the instant cause of action is **remanded** to the Circuit Court of Dunklin County, Missouri, for further proceedings.

**IT IS FURTHER ORDERED** that the Clerk of Court for the Eastern District of Missouri provide the Clerk of Court for the Circuit Court of Dunklin County, Missouri a certified copy of this Memorandum and Order.

Dated this 16th day of January 2015.

Abbie Crites-Leoni

ABBIE CRITES-LEONI
UNITED STATES MAGISTRATE JUDGE