

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CREIGHTON ST. JOSEPH REGIONAL
HEALTHCARE, LLC, d/b/a ST.
JOSEPH HOSPITAL - CREIGHTON
UNIVERSITY MEDICAL CENTER,

Plaintiff,

v.

OMAHA CONSTRUCTION INDUSTRY
HEALTH & WELFARE PLAN; JOINT
BOARD OF TRUSTEES OF THE
OMAHA CONSTRUCTION INDUSTRY
HEALTH & WELFARE PLAN,

Defendants and Third-
Party Plaintiffs,

v.

THE BENEFIT GROUP, INC.,
Third-Party Defendant.

CASE NO. 8:08CV238

ORDER

This matter is before the Court on the Report and Recommendation of Magistrate Judge F.A.Gossett recommending that this matter be remanded to the District Court for Douglas County, Nebraska, on the court's own motion, for lack of jurisdiction. (Filing No. 37). The recommendation is based on Judge Gossett's conclusion that the case was improperly removed to federal court by the Third-Party Defendant. The Report and Recommendation was filed on October 17, 2008.

A Statement of Objection to the Report and Recommendation, as allowed by 28 U.S.C. § 636(b)(1) and NECivR 72.3(a), has not been filed by any party. Having reviewed the record and having considered the Magistrate Judge's recommendation, de novo, I conclude that Judge Gossett's Report and Recommendation should be adopted, and the case should be remanded to the District Court for Douglas County, Nebraska.

Accordingly,

IT IS ORDERED:

1. The Report and Recommendation (Filing No. 37) is adopted in its entirety;
2. All pending motions (Filing Nos. 18 and 36) are denied as moot;
3. This matter is remanded to the District Court for Douglas County, Nebraska;
and
4. The parties will pay their own costs and attorney fees.

Dated this 7th day of November, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge