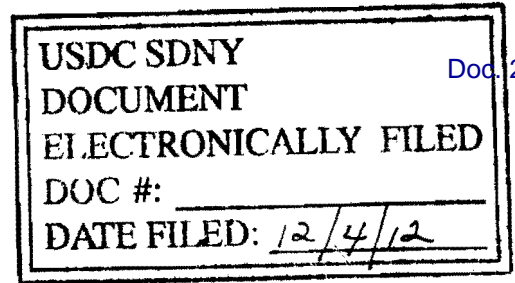


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
RITA ELIZABETH KEE,

Plaintiff,

-against-

12 CIV 6687 (RPP)

OPINION & ORDER

MICHAEL JOHN TUSCANO, and
SALVATORE PASZYNSKY

Defendantst.
-----X

ROBERT P. PATTERSON, JR., U.S.D.J.

This case is remanded pursuant to 28 U.S.C. § 1447(c), which commands a district court to remand a case back to state court, “[i]f at any time before final judgment it appears that the district court lacks subject matter jurisdiction.” Defendants’ Notice of Removal contends that allegations in Plaintiff’s Complaint accusing Defendants of violating the United States Racketeering Influenced Corrupt Organization Act (“RICO”), 18 U.S.C. § 1961 *et seq.*, were sufficient to establish “arising under” subject matter jurisdiction as set forth by 28 U.S.C. § 1441(c)(1)(A). (See Not. of Removal ¶ 8, Aug. 31, 2012, ECF No. 1.) Defendants have not filed an answer or a motion for summary judgment in this case and Plaintiff’s Amended Complaint, which was filed at least three weeks prior to Defendants’ motion to dismiss, omits any reference to, or allegations of, RICO violations. (See Am. Compl., Oct. 16, 2012, ECF No. 4.) Plaintiff’s Complaint only includes claims for intentional torts based on state causes of action, over which this Court has no basis to exercise its jurisdiction. Accordingly, the case is remanded back to state court and the case is closed.

SO ORDERED.

Dated: New York, New York
December 4, 2012

Robert P. Patterson, Jr.
U.S.D.J.

Copies of this Opinion & Order were sent via email to:

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