

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JEREMIAH LANE,)	
)	CASE NO. 4:14CV2677
Plaintiff,)	
)	
v.)	JUDGE BENITA Y. PEARSON
)	
EAGLE EXPRESS LINES, INC., <i>et al.</i> ,)	
)	<u>MEMORANDUM OF OPINION</u>
Defendants.)	<u>AND ORDER</u>

This action is before the Court upon Defendant Eagle Express Lines, Inc.'s Response to Court Order of December 11, 2014 ([ECF No. 8](#)).

On October 23, 2014, Plaintiff filed a complaint in the Mahoning County, Ohio Court of Common Pleas, being Case No. 2014 CV 02733 against Eagle Express Lines, Inc., Richard Gromley, Operator 6 Executive Security, LLC, SP Construction, and SDP, LLC. Defendant Eagle Express Lines, Inc. removed the case to this Court on December 5, 2014, on the basis of diversity of citizenship jurisdiction under [28 U.S.C. § 1332\(a\)](#). Notice of Removal ([ECF No. 1](#)) at PageID #: 2, ¶ 6. Defendant Richard Gromley, however, is a resident of the State of Ohio. Complaint ([ECF No. 1-1](#)) at PageID #: 5; Plaintiff's Motion to Remand ([ECF No. 7](#)) at PageID #: 36, ¶ 26; [ECF No. 8 at PageID #: 62](#). Furthermore, the Complaint ([ECF No. 1-1](#)) presents no cognizable federal claim.

[Section 1441\(b\)\(2\), 28 U.S.C.](#) expressly prohibits removal in the circumstances presented by the case at bar. Defendant Eagle Express Lines, Inc.'s removal of the instant case from state to federal court was improper, as a resident defendant cannot remove. [Section 1441\(b\)\(2\)](#)

(4:14CV2677)

provides: “A civil action otherwise removable solely on the basis of the jurisdiction under section 1332(a) of this title may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.” Defendant Richard Gromley, a citizen of Ohio, was served on December 15, 2014.

This case was originally filed in the Court of Common Pleas for Mahoning County, Ohio and Defendant Eagle Express Lines, Inc. concedes that Defendant Richard Gromley is a resident of Ohio. [ECF No. 8 at PageID #: 62](#). As a result, this case is not removable to federal court. *See Thompson v. Karr*, No. 98-3544, 1999 WL 519297, at *3 (6th Cir. July 15, 1999) (Defendants’ removal of the case from state to federal court was improper.). Therefore, it is appropriate for the Court to remand the case to the Mahoning County, Ohio Common Pleas Court.¹

IT IS SO ORDERED.

December 29, 2014
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge

¹ Defendant augurs an intention to consolidate the instant matter with another pending in federal court. As the Court lacks jurisdiction, remand, not consolidation, is appropriate.