

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

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PROVIDENCE PIERS, LLC,)
)
Plaintiff,)
)
v.	C.A. No. 12-532-S)
)
SMM NEW ENGLAND, INC.; THE CITY)
OF PROVIDENCE, RHODE ISLAND;)
ANDREW J. ANNALDO, in his)
capacity as Chairman & Secretary)
of the City of Providence Board)
of Licenses; ARYS BATISTA, in)
his capacity as Vice Chairman of)
the City of Providence Board of)
Licenses; ALLENE MAYNARD, in her)
capacity as Member of the City)
of Providence Board of Licenses;)
JEFFREY WILLIAMS, in his)
capacity as Member of the City)
of Providence Board of Licenses;)
and EVERETT BIANCO, in his)
capacity as Member of the City)
of Providence Board of Licenses,)
)
Defendants.)
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ORDER

WILLIAM E. SMITH, United States District Judge.

On January 16, 2013, this Court denied the Motion to Remand of Plaintiff Providence Piers, LLC ("Providence Piers"). (Opinion and Order, ECF No. 25.) The Court determined that the City of Providence, Rhode Island (the "City") and all named individuals serving on its Board of Licenses had been fraudulently joined to this action, and, thus, complete

diversity existed between Providence Piers and the remaining Defendant, SMM New England, Inc. (Id.) The City now moves for dismissal with respect to itself only.¹ (ECF No. 28.) This motion is unopposed and it is hereby GRANTED.

Rule 21 of the Federal Rules of Civil Procedure (Misjoinder and Nonjoinder of Parties) provides that "[o]n motion or on its own, the court may at any time, on just terms, add or drop a party." This Court already found that the City was fraudulently joined, so the City must now be dismissed. See Pascale Serv. Corp. v. Int'l Truck & Engine Corp., C.A. No. 07-0247-S, 2007 WL 2905622, at *2 n.4 (D.R.I. Oct. 1, 2007) ("As a practical matter, . . . upon a finding of fraudulent joinder and denial of the plaintiff's motion to remand, a court might also grant the fraudulently joined party's motion to dismiss."); see also Antonucci v. Cherry Hill Manor, No. Civ. A. 06-108ML, 2006 WL 2456488 at *2 (D.R.I. Aug. 22, 2006) (dismissing, pursuant Rule 21 of the Federal Rules of Civil Procedure, a party that was fraudulently joined).

IT IS SO ORDERED.

WESMML

William E. Smith
United States District Judge
Date: 3/7/13

¹ Because the other municipal Defendants were never served, this Motion pertains to the City only.