



**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

JAMES KING,

Plaintiff,

v.

**PROVIDENT LIFE AND ACCIDENT
INSURANCE COMPANY,
UNUM GROUP, and ROY CARROLL,**

Defendants.

§
§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 1:09-CV-983

**MEMORANDUM ORDER ADOPTING REPORT, OVERRULING OBJECTIONS
AND REMANDING CASE**

Pending before the Court is the Plaintiff's Motion to Remand [Doc. #4]. The Court referred this matter to United States Magistrate Judge Keith F. Giblin for consideration and recommended disposition of case-dispositive pretrial motions. The Court has received and considered the report of the United States Magistrate Judge pursuant to such order, along with the record, pleadings, and all available evidence.

The magistrate judge recommended that the Plaintiff's motion to remand be granted. The Defendants filed objections, and the Plaintiff responded to those objections.

Pursuant to the Defendants' objections and in accordance with 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b)(3), the Court conducted a *de novo* review of the magistrate judge's findings, the record, the specific objections, and the applicable law in this proceeding.

Having considered the Defendants' specific objections, the Court finds that the objections are without merit, and Judge Giblin's findings and analysis are not in error in analyzing the motion to remand and the improper joinder issue. The Court agrees with Judge Giblin that the Defendants have not carried their burden to establish that Roy Carroll was improperly joined in this case to defeat jurisdiction.

The Court therefore **ORDERS** that Defendants' objections [Doc. #21] to the magistrate judge's report and recommendation are **OVERRULED**. The Court further accepts the findings, analysis and recommended disposition set forth in Judge Giblin's report and recommendation. Accordingly, the Court **ORDERS** that the report and recommendation [Doc. # 19] of the magistrate judge is **ADOPTED**.

It is therefore **ORDERED** that Plaintiff's motion to remand [Doc. #4] is **GRANTED**. It is further **ORDERED** that this case is **REMANDED** to the 136th Judicial District Court of Jefferson County, Texas, from which it was removed. All pending motions not addressed herein are **DENIED** as **MOOT**, without prejudice.

So **ORDERED** and **SIGNED** this **9** day of **July, 2010**.



Ron Clark, United States District Judge