

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

LISA M. THARP and TRAVIS N. THARP,

Plaintiff,

v. // CIVIL ACTION NO. 1:11CV84
(Judge Keeley)

VERIZON COMMUNICATIONS, INC.,
VERIZON WEST VIRGINIA, INC.,
ANDREA L. CUSTIS, VICTORIA L.
BOSTON, CORBY MILLER and
BARBARA TERWILLIGER,

Defendants.

ORDER

GRANTING PLAINTIFFS' MOTION TO REMAND [DKT. NO. 21]

The defendants, Andrea L. Custis and Victoria L. Boston, removed this case from the Circuit Court of Harrison County, West Virginia, on the grounds that the claims of the plaintiffs, Lisa M. Tharp and Travis N. Tharp (collectively "the Tharps"), are completely preempted by the Labor Management Relations Act of 1947, 29 U.S.C. § 185 ("LMRA"), and the Employee Retirement Income Security Act, 29 U.S.C. § 1001, et seq. ("ERISA").

The Tharps moved to remand this case on the grounds that their claims are not completely preempted. In a Memorandum Opinion and Order entered this date in the case of Brosius v. Verizon Communications Inc., et al., No. 11CV38 (N.D.W. Va.), the Court

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explains its reasons for remanding that case to the Circuit Court of Harrison County, West Virginia. Other than the identity of the plaintiff and the inclusion of a claim for loss of consortium, the material considerations of this case are indistinguishable from the material considerations addressed in Brosius.

The legal principles set forth in Brosius compel the Court to conclude that, at bottom, none of the Tharps' claims is preempted either by the LMRA or ERISA. Accordingly, the Court **GRANTS** the Tharps' motion to remand (dkt. no. 21), and **REMANDS** this case to the Circuit Court of Harrison County, West Virginia.

It is so **ORDERED**.

The Court directs the Clerk to transmit copies of this Order to counsel of record, and to mail a copy to the Circuit Court of Harrison County, West Virginia.

DATED: July 29, 2011.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE