

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

CAPITOL ONE,

Plaintiff,

Case No. 06-C-67

v.

BARRY P. DEGNER,

Defendant.

OPINION AND ORDER

This is Defendant Barry P. Degner's second attempt to remove this case from the Circuit Court for Waukesha County (Wisconsin). This court remanded the case on his first attempt because there was no basis for subject matter jurisdiction. Degner has attempted to correct this deficiency by pointing out that an arbitration award preceded the state court action. He concludes that, therefore, this action arises under the Federal Arbitration Act. See 9 U.S.C. §§ 1-16. The Complaint filed in state court contains no claim under the federal Arbitration Act which, in any case, does not independently confer jurisdiction. See generally City of Chicago v. Comcast Cable Holdings, L.L.C., 384 F3d 901 (7th Cir. 2004). Therefore, because Degner has not established that this court has jurisdiction over the subject matter of this case, the court **ORDERS** that this action is remanded to the Circuit Court of Waukesha County.

IT IS FURTHER ORDERED that a certified copy of this Order of remand shall be mailed to the Clerk of the Circuit Court for Waukesha County whereupon that court may proceed with this case.

IT IS FURTHER ORDERED that the "Petition to Proceed Without Prepayment of Fees and/or Costs" (filed January 15, 2006) IS DENIED.

Done and Ordered in Chambers at the United States Courthouse, Milwaukee, Wisconsin, this 23rd day of January, 2006.

s/ Thomas J. Curran
Thomas J. Curran
United States District Judge