

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

CITGO PETROLEUM CORPORATION

Plaintiff,

v.

Case No. 17-cv-1679-pp

MTI CONNECT, LLC, *d/b/a* BLACK CANYON,
AND MGAGE, LLC

Defendants.

ORDER DENYING WITHOUT PREJUDICE MOTIONS TO DISMISS (DKT. NOS. 10, 12), GRANTING AS UNOPPOSED THE PLAINTIFF'S MOTION TO REMAND (DKT. NO. 16), REMANDING CASE TO THE MILWAUKEE COUNTY CIRCUIT COURT FOR FURTHER PROCEEDINGS, AND DISMISSING CASE

On November 29, 2017, defendant mGage, LLC filed a notice a removal, removing this case from the Milwaukee County Circuit Court to federal court. Dkt. No. 1. In the notice of removal, mGage conceded that it had not obtained co-defendant MTI Connect, LLC's consent to remove, but asserted that "MTI's consent is not required because the claims against mGage are separate and independent claims from those against MTI and would be removable if sued upon." Dkt. No. 1 at 2, ¶3.

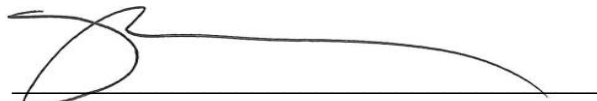
Three weeks later, mGage filed two motions: (1) a motion to dismiss Citgo's case for failure to state a claim, dkt. no. 10, and (2) a motion to dismiss Citgo's case for lack of jurisdiction, dkt. no. 12. The next day, the plaintiff filed a motion asking this court to remand the case back to Milwaukee County, on the ground that mGage could not remove the case without the consent of all

defendants. Dkt. No. 16. In response, MGage, LLC filed a “notice of consent to remand to state court,” stating that it consented to the court remanding the case to Milwaukee County Circuit Court and that the plaintiff had represented that it would not seek an award of fees or costs for its efforts to remand the case. Dkt. No. 20. Defendant MTI Connect LLC has not entered an appearance or participated in the federal court proceedings.

The court **DENIES WITHOUT PREJUDICE** the defendant’s pending motions to dismiss, dkt. nos. 10 and 12. The court **GRANTS AS UNOPPOSED** the plaintiff’s motion to remand. Dkt. No. 16. The court **REMANDS** the case to the Circuit Court for Milwaukee County for further proceedings. The court **ORDERS** that this case is **DISMISSED**.

Dated in Milwaukee, Wisconsin this 22nd day of January, 2018.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge