

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

LISA GRIGGS, et al.,

Plaintiffs,

vs.

NEW DOMINION, LLC., et al.,

Defendants.

Case No. CIV-17-1232-F

**PLAINTIFFS' MOTION TO REMAND
AND INCORPORATED MEMORANDUM OF LAW IN SUPPORT**

COME NOW Plaintiffs Lisa Griggs and April Marler, on behalf of themselves and all others similarly situated (together, "Plaintiffs"), and respectfully move for the immediate remand of this action to Logan County District Court pursuant to 28 U.S.C. § 1447 (c). In support thereof, Plaintiffs state as follows:

1. This matter has already been decided by this Court. See *Griggs v. New Dominion*, W.D. of Okla., Case No. CIV-17-942-F.

2. On September 1, 2017, Defendant Chesapeake Operating LLC ("Chesapeake") filed a Notice of Removal of this action (the "Chesapeake Removal"). Chesapeake asserted minimal diversity of citizenship under the Class Action Fairness Act ("CAFA") due to a scrivener's error appearing in the caption of Plaintiff's Petition, which mistakenly listed among the defendants a foreign, non-party entity named Gastar Exploration, Inc. ("Gastar"). *Griggs v. New Dominion*, W.D. of Okla., Case No. CIV-17-942-F, Notice of Removal (Dkt. 1; September 1, 2017).

3. On September 7, 2017, Plaintiffs filed their Motion to Remand this action to the District Court of Logan County, Oklahoma. *Griggs v. New Dominion*, W.D. of Okla., Case No. CIV-17-942-F, Motion to Remand (Dkt. 6; September 7, 2017).

4. On October 17, 2017, this Court determined that all of the true plaintiffs and defendants in this action were citizens of Oklahoma and, for this reason, CAFA's minimal diversity of citizenship requirement was not met. *Griggs v. New Dominion*, W.D. of Okla., Case No. CIV-17-942-F, Order (Dkt. 11; Oct. 17, 2017) (the "Oct. 17th Order").

5. On October 24, 2017, Plaintiffs filed their First Amended Petition in Logan County.¹ As to the pertinent citizenship issue, the only thing that changed with the amendment was the correction of counsel's scrivener's error as to Gastar, which was removed from the caption. The parties and class definition otherwise remained the same.

6. On November 17, 2017, Defendant Devon Energy Production Co., L.P. ("Devon") again removed this action to the Western District of Oklahoma. Devon's basis for removal is that CAFA's minimal diversity requirement is met because the amended pleading's class definition includes absent class members that would be citizens of other states. ¶¶ 14 - 18, Notice of Removal (Dkt. 1). Devon is wrong.

7. Plaintiffs again move for immediate remand because, as with the Chesapeake Removal, it is abundantly clear that Devon's removal was wrongful and this Court lacks subject matter jurisdiction, as it previously determined in October.

¹ Plaintiffs filed their original Petition in this case on July 21, 2017.

8. The class definition did not change in the amended petition. The proposed definition requires each absent class member to be a citizen of Oklahoma. Indeed, it is requirement number one. ¶ 71 a., First Amended Petition (Dkt. 1-2).

9. As this Court previously ruled in its Oct. 17th Order concerning this same action, and these same parties, CAFA's minimal diversity requirement is not satisfied here.

WHEREFORE, Plaintiffs respectfully request an order remanding this action to the District Court of Logan County and providing Plaintiffs an award for their attorneys' fees and costs and all other just and appropriate relief.

DATED: November 20, 2017

Respectfully Submitted,

/s/ William B. Federman

William B. Federman

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 20, 2017, a copy of the foregoing document was electronically filed with the Clerk of Court of the United States District Court for the Western District of Oklahoma, using the CM/ECF system, which will send a Notice of Electronic filing to all parties of record.

/s/ William B. Federman