

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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ESTATE OF ASHLEIGH PICKARD,  
by its personal representatives, Constance  
and Matthew Pickard, CONSTANCE  
PICKARD and MATTHEW PICKARD,

Plaintiffs,

ORDER

and

02-C-0282-C

CENTRAL STATES SOUTHEAST AND  
SOUTHWEST AREAS HEALTH &  
WELFARE FUND,

Involuntary Plaintiff,

v.

WISCONSIN CENTRAL LTD.,

Defendant.

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On December 30, 2002, I remanded this case to the Circuit Court for Portage County, Wisconsin, because involuntary plaintiff Central States Southeast and Southwest Areas Health & Welfare Fund and defendant Wisconsin Central Ltd. are both citizens of the state of Illinois and, thus, the parties lack complete diversity. On January 7, 2003,

defendant filed a motion to reconsider and vacate the remand order in conjunction with a motion to dismiss involuntary plaintiff as a dispensable party. Plaintiffs and involuntary plaintiff oppose these motions.

Originally defendant argued in its removal notice that involuntary plaintiff was a nominal party and, thus, its citizenship was not relevant for purposes of determining diversity. However, I determined that because involuntary plaintiff had at least a subrogated interest, it was a real party in interest and not a nominal party. Defendant does not take issue with this conclusion. Instead, defendant argues that under Fed. R. Civ. P. 19(b) and 21, this court should dismiss involuntary plaintiff as a non-diverse, dispensable party in order to cure the lack of diversity jurisdiction, even if the involuntary plaintiff had been joined properly in state court. Defendant contends further that proceeding in this fashion is warranted because no party to this lawsuit would be prejudiced by involuntary plaintiff's dismissal.

The first question, which none of the parties address, is whether this court has jurisdiction to determine the present motions given the fact that this case already has been remanded to state court. The answer to this question is no. See 28 U.S.C. § 1447(d) (“An order remanding a case to the State court from which it was removed is not reviewable *on appeal or otherwise*, except [those cases] removed pursuant to section 1443 [civil rights cases]”) (emphasis added). It is well established that once a federal district court remands a case and

mails a certified copy of its order to the state court, the district court loses all jurisdiction. See United States v. Rice, 327 U.S. 742 (1946); Browning v. Navarro, 743 F.2d 1069, 1077-80 (5th Cir. 1984); Boone Coal and Timber Co. v. Polan, 787 F.2d 1056, 1059-61 (6th Cir. 1986); Pelleport Investors, Inc. v. Budco Quality Theatres, 741 F.2d 273, 279 n.3 (9th Cir. 1984); Three J. Farms, Inc. v. Alton Box Board Co., 609 F.2d 112, 115 (4th Cir. 1979); Federal Deposit Insurance Corp. v. Santiago Plaza, 598 F.2d 634, 636 (1st Cir. 1979); see also 14C Wright & Miller, Federal Practice and Procedure 3d § 3740. The policies behind this rule are obvious. First, removal is to be construed strictly. Second, limiting review “prevent[s] delay in the trial of remanded cases by protracted litigation of jurisdictional issues.” Thermtron Products, Inc. v. Hermansdorfer, 423 U.S. 336, 351 (1976). Third, such a rule furthers not only the interests of judicial economy, but also the principles of comity. See City of Valparaiso v. Iron Workers Local Union No. 395, 118 F.R.D. 466 (N.D. Ind. 1987).

The action must not ricochet back and forth depending upon the most recent determination of a federal court. . . . [T]here is no more reason for a district court being able to review its own decision, and revoke the remand, than for an appellate court requiring it to do so. Both are foreclosed: nothing could be more inclusive than the phrase “on appeal or otherwise.” The district court has one shot, right or wrong.

In re Providencia Development Corp., 406 F.2d 251, 252-53 (1st Cir. 1969).

On January 2, 2003, this court mailed a certified copy of the record and this court’s remand order to the Circuit Court for Portage County. Therefore, at the time defendant

filed its motions on January 7, 2003, this court no longer had jurisdiction over this case. Accordingly, defendant's motions will be denied as moot.

ORDER

IT IS ORDERED that defendant Wisconsin Central Ltd.'s motion to reconsider and vacate this court's remand order and motion to dismiss involuntary plaintiff are DENIED as moot because this court no longer has jurisdiction to determine these motions.

Entered this 12th day of February, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge