

FILED  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF LA

2006 MAR 16 P 4: 55

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

LORETTA G. WHYTE  
CLERK

JAMES and REBECCA WALLACE, ET AL

CIVIL ACTION

versus

NO. 06-0114

LOUISIANA CITIZENS PROPERTY  
INSURANCE CORPORATION, ET AL

SECTION: E/1

ORDER AND REASONS

This matter is before the Court on Louisiana Farm Bureau Mutual Insurance Company and Louisiana Farm Bureau Casualty Insurance Company's motion to stay enforcement of this Court's order of remand, entered on February 15, 2006, at record document #21. Record document #26-2. Plaintiffs oppose the motion, which was submitted on the briefs on March 15, 2006. For the following reasons, the motion is denied.

This is a Class Action Petition by property owners in Plaquemines Parish against Louisiana insurers regarding whether the plaintiffs are entitled to recover the full value stated on the face of their insurance policies for the total loss of their insured property as a result of Hurricane Katrina, pursuant to Louisiana law. The lawsuit is brought solely pursuant to state law, La.R.S. 22:695(A) of the State Insurance Code, known as the "Valued Policy Law" (VPL). It was filed in state court and removed to district court by the intervening defendants in this lawsuit and movants herein - Louisiana Farm Bureau Mutual

Insurance Company and Louisiana Farm Bureau Casualty Insurance Company. Removal was based on 28 U.S.C. 1441(e)(1)(B), a new removal provision enacted in 2002 as a companion to 28 U.S.C. 1369, the Multiparty, Multiforum Trial Jurisdiction Act (MMTJA).

Defendants filed a petition for a permissive appeal of the order of remand before the United States Fifth Circuit Court of Appeals pursuant to 28 U.S.C. § 1453(c)(1). They now argue that this Court should stay its order of remand pending the Fifth Circuit's decision on the petition for a permissive appeal, claiming that this Court had jurisdiction over the removed action pursuant to the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. 1332(d)(2), and that its appeal of the order of remand is proper pursuant to 28 U.S.C. § 1453(c)(1), CAFA's companion removal statute. The Court disagrees.

Defendants' removal of this action was based solely on 28 U.S.C. 1369, the MMTJA, and its companion removal statute, 28 U.S.C. 1441(e)(1)(B). The Court's order to remand the action was based on this Court's lack of jurisdiction pursuant to 28 U.S.C. 1369(b). This Court has no jurisdiction to stay its order remanding this action for lack of jurisdiction.

Accordingly,

**IT IS ORDERED** that Defendants' motion to stay enforcement of its order to remand is **DENIED**.

New Orleans, Louisiana, March 16, 2006.



**MARCEL LIVAUDAIS, JR.**

Senior United States District Judge