

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

DULCICH, INC. dba PACIFIC  
SEAFOOD GROUP, et al.,

3:13-cv-00003-ST

Plaintiffs,

ORDER

v.

MAYER BROWN, LLP,

Defendant.

**BROWN, Judge.**

Magistrate Judge Janice M. Stewart issued Findings and Recommendation (#45) on March 19, 2013, in which she recommends the Court grant Plaintiffs' Motion (#4) to Remand and strike Defendants' Motion (#22) to Dismiss and Motion (#6) to Change or Transfer Venue. Defendant filed timely Objections (#47) to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's

report. 28 U.S.C. § 636(b)(1). See also *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)(*en banc*).

In its Objections Defendant argues the Magistrate Judge's conclusion in the Findings and Recommendation was erroneous because the Magistrate Judge misinterpreted the basis for Defendant's removal to be the real-party-in-interest doctrine as opposed to fraudulent joinder. The Court does not find this argument compelling in light of the fact that the Magistrate Judge addressed the issue of fraudulent joinder in the context of timeliness of removal, and, in any event, Defendant's argument does not change the analysis or outcome as to the timeliness of Defendant's removal action. Defendant otherwise merely reiterates the arguments contained in its Surreply (#35) in Opposition to Plaintiffs' Motion to Remand. Thus, this Court has carefully considered Defendant's Objections and concludes they do not provide a basis to modify the Findings and Recommendation.

The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

#### **CONCLUSION**

The Court **ADOPTS** Magistrate Judge Stewart's Findings and Recommendation (#45) and, accordingly, **GRANTS** Plaintiffs' Motion (#4) to Remand and **STRIKES as moot** Defendant's Motion (#22) to

Dismiss and Motion (#6) to Change or Transfer Venue.

IT IS SO ORDERED.

DATED this 18th day of June, 2013.

/s/ Anna J. Brown

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ANNA J. BROWN  
United States District Judge