

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

CAPITAL ONE BANK (USA), N.A.
SUCCESSOR IN INTEREST CAPITAL
ONE BANK,

Plaintiff,

v.

RAYMOND W. MCLAUGHLIN,¹
Defendant.

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No. 3:10-cv-00424-SRU

ORDER OF REMAND

This action was brought to the District Court by the filing of a Notice of Removal (doc. # 1). The matter is remanded because the removal is defective on two separate bases. First, removal violated 28 U.S.C. § 1441(b), which provides that a case in which removal is based on diversity jurisdiction “shall be removable only if *none* of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.” 28 U.S.C. § 1441(b) (emphasis added). Here, removal is premised on diversity jurisdiction, and defendant Raymond McLaughlin is a citizen of Connecticut, the forum state. Accordingly, removal is prohibited by 28 U.S.C. § 1441(b). *See Four Keys Leasing & Maint. Corp. v. Simithis*, 849 F.2d 770, 773 (2d Cir. 1988).

Second, removal violated 28 U.S.C. § 1446(b), which requires that any motion to remove must be filed within thirty days after the defendant receives service of process. McLaughlin was served on February 6, 2010. (Pl. Mem. in Support of Mot. for Remand, doc. # 6, Ex. A.) McLaughlin did not seek to remove the case until his March 19, 2010 filing in this court, which

¹ The defendant’s papers indicate that he has changed his name to Shakir Ra Ade Bey. The case caption reflects the names of the parties as set forth in the state court Complaint.

was more than thirty days after he received service of process.

Accordingly, the case is **REMANDED** to the Superior Court of East Hartford, Connecticut. The clerk shall close the case.

Dated at Bridgeport, Connecticut, this 31st day of March 2010.

/s/ Stefan R. Underhill
Stefan R. Underhill
United States District Judge