

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 93-8412
Summary Calendar

MILLIKEN & COMPANY,

Plaintiff-Appellee,

VERSUS

HUSSIEN ALI, a/k/a
Acme Service Supply & Uniform Rental, a/k/a
Acme Uniform Rental,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
(SA-93-CA-322)

(December 27, 1993)

Before GARWOOD, SMITH and DeMOSS, Circuit Judges.

PER CURIAM:*

On December 5, 1991, Milliken and Company ("Milliken") sued Hussien Ali, d/b/a Acme Service Supply and Uniform Rental, a/k/a Acme Uniform Rental ("Ali") in the County Court at Law No. 5 of Bexar County, Texas. The service of process on Ali was achieved on

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

February 19, 1992, and Ali filed a *pro se* answer on March 5, 1992. Judgment was entered against Ali in the state court proceeding on May 14, 1992. On April 21, 1993, Ali, acting *pro se*, filed a Notice of Removal in the United States District Court for the Western District of Texas at San Antonio. The Notice of Removal expressly alleges that Ali is "a citizen of the State of Texas" and that Milliken is "a company based in the State of New York." The Notice of Removal contains no allegations regarding jurisdictional amount. Milliken filed a motion to remand on April 30, 1993, and the matter was referred to the Magistrate Judge for consideration. The Magistrate Judge issued an order to the parties "to show cause in writing and file same on or before May 12, 1993, why this case should not be remanded to state court pursuant to 28 U.S.C. § 1447(c)". Ali did not respond to such show cause order.

On June 2, 1993, the Magistrate Judge issued her memorandum and recommendation that the District Court grant Milliken's motion for remand and for attorneys' fees in the amount of \$475.00. Ali filed objections to the Magistrate Judge's memorandum, and on June 17, 1993, the District Judge conducted an independent review of the entire record and adopted the Magistrate Judge's factual findings and legal conclusions. On June 18, 1993, Final Judgment was entered remanding the case to the County Court at Law No. 5 of Bexar County, Texas, from which it came, and awarding attorneys' fees to Milliken in the amount of \$475.00. On June 22, 1993, Ali filed a Notice of Appeal.

An order remanding a case to the State Court from which it was removed is not reviewable on appeal or otherwise. 28 U.S.C. § 1447(d). The sanctions award is appealable, see *Vatican Shrimp Co., Inc. v. Solis*, 820 F.2d 674, 680 n.7 (5th Cir. 1987), but the sanctions were plainly merited.

The appeal of the remand order is DISMISSED; the award of sanctions is AFFIRMED.