

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-41183

CURTIS LAURENTS, ET AL.,

Plaintiffs-Appellants,

versus

ARCADIAN CORPORATION, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court for the
Western District of Louisiana
(2:93 CV 1475;1476;1477)

(October 4, 1995)

Before REAVLEY, JOLLY, and WIENER, Circuit Judges.

PER CURIAM:*

I

This matter is before the court as an appeal under 28 U.S.C. § 1292 from the January 11, 1995 order of the Honorable James T. Trimble, United States District Court for the Western District of Louisiana, Lake Charles Division.

*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 Pursuant to that Rule, the court has determined that this opinion should not be published.

On July 28, 1992, a urea reactor at a plant owned by Arcadian Corporation ("Arcadian") exploded, causing extensive damage. Due to the explosion, Arcadian notified its employees in August 1992 that a reduction in force of unknown duration would take place. Lay-offs began on August 19, 1992, and the plant eventually shut down and was offered for sale.

On July 27, 1993, one hundred and nine named individuals and the Lake Charles Metal Trades Council (the "Employees") brought a class action suit against Arcadian and two of its managers, Ernest Elsbury and Dana Baham (collectively, the "Employers"). The suit asserted a host of state law tort and contract claims involving the collective bargaining agreement between Arcadian and the Lake Charles Metal Trades Council.

On August 26, 1993, the Employers filed a Notice of Removal of the case to the United States District court for the Western District of Louisiana under 28 U.S.C. § 1441, claiming that the district court had original jurisdiction of the action pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 185, § 301 of the Labor Relations Management Act of 1947 (the "LRMA").

Following removal, the Employees amended their petition to delete many references to federal law and the collective bargaining agreement.

The Employees then filed a motion to remand the matter to the Louisiana state court on the grounds that no federal question was raised by the Employees' allegations and that the entire case

should be remanded, in accordance with 28 U.S.C. § 1441(c), as state law predominates.

All motions were assigned for report and recommendation to United States Magistrate Judge Alonzo P. Wilson. Magistrate Judge Wilson issued a report and recommendation on November 12, 1993, recommending denial of the Employees' motion to remand the case and dismissal without prejudice of the Employees' claims for relief under the LRMA. On November 30, 1993, the Employees filed an objection to the report and recommendation.

The district court issued a memorandum ruling on January 11, 1994, after a de novo review of the record. On the same day, the district court signed an order dismissing the Employees' claims for relief under 29 U.S.C. § 158 without prejudice to their rights to assert their claims before the National Labor Relations Board. The district court otherwise denied the Employees' motion for remand of the case. Thereafter, the court certified this interlocutory appeal under 28 U.S.C. § 1292(b). The sole issue certified to this court--and, consequently, the only issue before us--is the denial of the Employees' motion to remand the entire case. D.Ct. Order at 1. We granted leave to appeal.

In its ruling, the district court characterized certain of the Employees' claims as federal and others as state law claims. The district court then declined to remand the federal claims and concluded that remand of the state claims was not authorized under 28 U.S.C. § 1441(c) since the state claims arose from the same

series of events as the federal claims. The district court further stated that remand was not authorized pursuant to 28 U.S.C. § 1367 since the state law claims were sufficiently intertwined with federal claims to make it appropriate for the court to exercise supplemental jurisdiction.

II

The Employees conceded at oral argument that the district court properly exercised its removal jurisdiction. They assign error only to the district court's finding that state law issues did not predominate to such an extent that remand of the case to state court was warranted. Once federal court jurisdiction is established, this court reviews the district court's decision to assert supplemental jurisdiction for an abuse of discretion. Hook v. Morrison Milling Co., 38 F.3d 776, 780 (5th Cir. 1994).

In their first ground of error, the Employees assert that the district court abused its discretion in choosing not to remand the claims against Arcadian's managers, Elsbury and Baham, "because they were not parties to the collective bargaining agreement." Citing Bonanno Linen Service, Inc. v. McCarthy, 708 F.2d 1, 7 (1st Cir. 1983), the Employees contend that supplemental jurisdiction is appropriate only where "Congress has vested in the federal courts the power to hear plaintiff's claims against the individual defendants. . . ." This is hardly a correct characterization of the law. In civil actions in which the district court has original jurisdiction, the court "shall have supplemental jurisdiction over

all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy." 28 U.S.C. § 1367(a). We twice have held that supplemental jurisdiction existed over state law claims against a codefendant when federal question jurisdiction existed over claims against another named defendant. See Rodriguez v. Pacific Care of Texas, Inc., 980 F.2d 1014 (5th Cir. 1993); Baker v. Farmers Electric Cooperative, Inc., 34 F.3d 274 (5th Cir. 1994). In the light of the authority granted by section 1367, the district court properly retained the state law causes of action against Elsbury and Baham.

Second, the Employees insist that the district court abused its discretion by failing to remand the entire case to state court pursuant to 28 U.S.C. § 1441(c) because the "state law issues overwhelmingly predominate" any preempted claims. The remand of a case that has been removed to federal court is governed by 28 U.S.C. § 1441(c). Section 1441(c) provides:

Whenever a separate and independent claim or cause of action within the jurisdiction of 1331 of this title is joined with one or more otherwise non-removable claims or causes of action, the entire case may be removed and the district court may determine all issues therein, or, in its discretion, may remand all matters in which State law predominates.

Although the district court has discretion to remand state law claims that were removed along with one or more federal question claims, it may not remand the component claims that are conclusively deemed to have arisen under federal law, absent a

defect in the removal procedure or circumstances rendering the retention of jurisdiction "inappropriate." Buchner v. F.D.I.C., 981 F.2d 816, 819-20 (5th Cir. 1993). Retaining a case may be inappropriate, however, where a plaintiff drops all federal claims, leaving only pendent state law claims. Id. at 820 (citing Carnegie-Mellon University v. Cohill, 484 U.S. 343, 357 (1988)). Otherwise, "the district court's subject matter jurisdiction over [federal] claims is mandatory so it has no discretion to remand them to state court." Id. at 821.

In the instant case, the Employees do not dispute the removal jurisdiction exercised by the district court over the federal claims. Neither do they contend that their complaint as amended no longer states any federal claim. Moreover, they request remand of the entire case to state court. Given Buchner's command that a district court has no discretion to remand an entire case when it clearly has subject matter jurisdiction over component federal claims, we hold that the district court did not abuse its discretion in declining to remand the entire case to state court. Therefore, the denial of remand by the district court is

A F F I R M E D.