

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MASSACHUSETTS**

Town of Lee
Plaintiff
v.

Monsanto et al.
Defendants.

Case No: 3:24-cv-30050 MGM
Jury Trial Demanded

Notice to the Court Regarding GE's Proposed Motion

GE requested Plaintiff under FRCP 7.1 to assent to a proposed Motion for comment on Plaintiff's Supplemental Filing of Related cases Dkt-39. Plaintiff agreed to GE's proposed filing with the caveat that Plaintiff be allowed to file a reply to GE filing. (*Exhibit-A Rule 7.1 Communication*.) Plaintiff welcomes GE's proposed motion since cases cited by Plaintiff in *Dkt-39* are dispositive of GE's Removal Motion *Dkt-1*, and Plaintiff's Request for Jurisdiction based of federal question under *28 U.S. Code § 1331. Dkt-38*.

The removing party bears the burden of establishing federal jurisdiction. See Strawn v. AT & T Mobility LLC, 530 F.3d 293, 297-98 (4th Cir. 2008). A defendant may remove a case only if the claim could have been brought in federal court on the basis of federal question jurisdiction or diversity jurisdiction. 28 U.S.C. § 1441(b); Caterpillar, Inc. v. Williams, 482 U.S. 386, 392, 107 S. Ct. 2425, 96 L. Ed. 2d 318 (1987). Generally, a case can be filed originally in a federal district court if there is diversity of citizenship and a certain amount is in controversy under 28 U.S.C. § 1332 or if there is so-called "federal question" jurisdiction under 28 U.S.C. § 1331. As the Fourth Circuit Court of Appeals has explained, "courts should resolve all doubts about the propriety of removal in favor of retained state court jurisdiction." Hartley v. CSX Transp., Inc., 187 F.3d 422, 425 (4th Cir. 1999) (internal quotation and citation omitted). In light of the foregoing authority, Defendant bears a heavy burden of proving that this case falls within the court's removal jurisdiction. The Supreme Court has commanded that when considering removal jurisdiction, federal courts must "scrupulously confine their own jurisdiction to the precise limits which the statute has defined." Shamrock Oil & Gas Corp. v. Sheets, 313 U.S. 100, 109, 61 S. Ct. 868, 85 L. Ed.

1214 (1941) (internal quotation and citations omitted). Robertson v. S.C. Dep't of Corr., 2019 U.S. Dist. LEXIS 225492 pg-4.)

The First Amended Complaint *Dkt-11-2* filed 5/10/24 makes clear the lack of diversity of jurisdiction under 28 U.S. Code § 1332. “The Town of Lee, located in Western Massachusetts ... “ ¶ 43. “GE’s principal place of business is located in Boston, Massachusetts where GE’s Headquarters are located”. ¶ 55.

GE ignored lack of jurisdiction of this Court when it removed this case *Dkt-1* and must withdraw its removal to allow this court to remand the case avoiding further waste of judicial time.

Plaintiff requested the Court on Dck-38 to retain jurisdiction of this case on the basis of federal question of first impression in the First Circuit.

If questions of first impression alone were sufficient to warrant certification for an immediate appeal, the appellate courts would be besieged with piecemeal interlocutory appeals. Shaup v. Frederickson 1998 U.S. Dist. Lexis 16532 (1998).

Shaup made Plaintiff’s counsel aware of the flimsy nature of Plaintiff’s request to accept jurisdiction on first impression grounds.

The Court has to look no further than to cases cited in Dck-38 pgs.4-6 **which are exactly in all fours with Lee’s case.** These cases were remanded by District Court Judges Noel L. Hillman and Jarret E, Brown Jr. *New Jersey Dep't of Env'tl. Protection v. MN Mining & Mfg. Co., Civil Action No. 06-2612(NLH), 2007 U.S. Dist. LEXIS 49613 (D.N.J. July 5, 2007)* and *New Jersey Dep't of Env'tl. Protection v. MN Mining & Mfg. Co., Civil Action No. 06-2612(NLH), 2007 U.S. Dist. LEXIS 49613 (D.N.J. July 5, 2007)*. Plaintiff withdraws its request for jurisdiction.


Respectfully submitted by
s/Cristóbal Bonifaz, Esq.
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Certificate of Service

This document has been served through the ECF system to all attorneys of record in this litigation.

s/ Cristóbal Bonifaz, Esq.
Cristóbal Bonifaz, Esq.

EXHIBIT A

From: Cristobal Bonifaz ccrbonifaz@gmail.com 
Subject: Re: Pittsfield: Request for Leave to Respond to Notice of Authorities
Date: May 20, 2025 at 12:38 PM
To: Byers, Michelle MByers@campbell-trial-lawyers.com



I have no problem as long as you agree that I can file a reply to whatever you file. Please confirm that you agree to my reply.
Cristobal

On Tue, May 20, 2025 at 9:26 AM Byers, Michelle <MByers@campbell-trial-lawyers.com> wrote:

Attorney Bonifaz,

In follow up to my voicemail this morning, pursuant to Local Rule 7.1, GE intends to move the court for leave to respond to the Town of Lee's notice of supplemental authorities. Please let me know if we have your assent to seek leave from the court.

Thank you,

Michelle

Michelle M. Byers

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