

law, in the Court of Common Pleas of Philadelphia County. Frempong avers, however, that he "cannot obtain justice in the Court of Common Pleas of Philadelphia County." (Notice of Removal ¶ 9). Nevertheless, Frempong repeatedly attempted and continues to attempt to "obtain justice" by filing multiple, repetitive suits in both Pennsylvania state courts and the Eastern District of Pennsylvania, all of which arise from the same nucleus of operative fact.¹ The Court now turns to the motions pending in this matter.

II. DISCUSSION

A. Legal Standard for Removal Under Federal Statutes

It is well settled that the federal removal statutes confine the right of removal from a state court to a federal district court to a defendant or defendants. See Shamrock Oil & Gas Corp. v. Sheets, 313 U.S. 100, 104-105, 61 S. Ct. 868 (1941);² Conner v. Salzinger, 457 F.2d 1241, 1243 (3d Cir. 1972); Marcone v. Philadelphia Marine Trade Ctr., No. CIV.A. 98-438, 1998 WL 334078, at *1 (E.D. Pa. June 22, 1998); Federal Sav. & Loan Ins. Corp. v. Bensalem Country Club, CIV.A. No. 89-2705, 1989 WL 74974, at *1 (E.D. Pa. June 26, 1989); Chase v. North Am. Sys., Inc., 523 F. Supp. 378, 382 (E.D. Pa. 1981); Redmer v. Borough of Pine Beach,

^{1/} The Court currently has pending before it three cases filed by Frempong concerning the same transactions (i.e., the City of Philadelphia condemned buildings owned by Frempong and/or his family). With respect to these condemnations, Frempong claims he was denied due process of law and was discriminated against on the basis of, inter alia, his race.

^{2/} In Shamrock, the predecessor section of § 1441 was at issue.

No. CIV.A. 91-4572 (CSF), 1991 WL 247002, at *2 (D.N.J. Nov. 18, 1991). No right exists in favor of a person who, as plaintiff, has filed an action in the state court, to cause the removal of such action to a federal court. See Conner, 457 F.2d at 1243 (citations omitted). See also Redmer, 1991 WL 247002, at *2 (stating that federal removal statutes "provide no right on behalf of plaintiffs to remove their own action from the state forum in which they chose to bring it."). Indeed, a plaintiff is considered the master of his or her claim and it is therefore proper to require a plaintiff to abide by his or her choice of forum. See Shamrock Oil, 313 U.S. at 106 n.2, 61 S. Ct. at 871 n.2; Marcone, 1998 WL 334078, at *1.

1. Pennrose's Motion to Remand

Pennrose argues, inter alia, that remand is proper because Frempong is not a defendant within the meaning of the pertinent federal removal statutes. The Court agrees.

The federal removal statutes expressly state that the removal power is vested in defendants. See, e.g., 28 U.S.C.A. §§ 1441(a), 1443, & 1446(a) (West 1999). Frempong, however, is clearly a plaintiff in the instant action. Frempong, as plaintiff and, therefore, as the "master of his own claim," is precluded from removing to federal court the action he filed in the Court of

Common Pleas of Philadelphia. Accordingly, Pennrose's Motion to Remand is granted.\³

a. Legal Standard for Award of Attorney Fees and Costs Under 28 U.S.C.A. § 1447(c)

Section 1447(c) states that "[a]n order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal." 28 U.S.C.A. § 1447(c) (West 1999). The court has discretion to award attorneys fees and costs pursuant to § 1447(c) but such an award should be granted "only where the removal of the case was made in bad faith and was clearly without legal support." U.S. Healthcare, Inc. v. Reliastar Fin. Corp., CIV.A. No. 96-4388, 1996 WL 745536, at *3 (E.D. Pa. Dec. 16, 1996) (quoting Doe v. Ross, CIV.A. No. 94-6572, 1995 WL 329042, at *7 (E.D. Pa. May 26, 1996)). Congress believed that the ability to award actual expenses, attorneys' fees, and costs would "provide an adequate cost threat, and [that] the use of money sanctions would be as sufficient a threat as the bond." Congo v. Corfax Group, CIV.A. No. 90-5261, 1990 WL 182151, at *2 (E.D. Pa. Nov. 26, 1990) (citations omitted).

(1) Pennrose's Motion for Costs and Attorneys Fees

Pennrose claims that Frempong "was well aware of the baseless

^{3/} Frempong's claim that removal is warranted under the All Writs Act, 28 U.S.C.A. § 1651 (West 1999), is, inter alia, wholly unsupported by the record and, therefore, does not provide sufficient grounds for the instant removal. Additionally, BCA's Motion for Enlargement of Time to Respond to Defendant's Motion to Remand is denied as moot as BCA responded on June 11, 1999, to Pennrose's Motion.

nature of his Petition for Removal." (Pennrose's Mem. of Law in Supp. of its Mot. to Remand and for Costs and Atty. Fees at 35). Pennrose further claims that Frempong wholly failed to comply with the most basic procedural requirements for removal, despite the express language of the statutes and despite his abundant knowledge and prior experience with such pleadings." (Pennrose's Mem. of Law in Supp. of its Mot. to Remand and for Costs and Atty. Fees at 33). Pennrose thus requests an award of "its just costs and actual expenses, including attorneys' fees," (Pennrose's Mem. of Law in Supp. of its Mot. to Remand and for Costs and Atty. Fees at 35), alleging that § 1447(c) empowers the Court with the discretionary authority to honor said request. The Court agrees.

The instant action is a sound example of why Congress amended § 1447(c) in 1988 to provide district courts with discretion to sanction parties that remove a case in bad faith and without legal support. Frempong's removal clearly lacks legal support for removal by a plaintiff wholly contravenes the plain, express language of the federal removal statutes. Moreover, the Court imputes Frempong's removal as a bad faith action for he is frequent litigant in the federal and state court systems and has sufficient knowledge of federal court procedure. In removing this action to federal court, Frempong created an undue burden for defendant Pennrose. Pennrose was forced to respond to Frempong's removal, thereby incurring attorneys' fees, costs, and, presumably, other

expenses. Therefore, the Court finds that it is not only just for Pennrose to receive a reasonable award under § 1447(c), such an award may provide pause to Frempong before he files more frivolous motions in the instant action. Accordingly, the Court grants Pennrose's Motion for Costs and Attorneys Fees.

An appropriate Order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

STEPHEN FREMPONG-ATUAHENE and : CIVIL ACTION
BALTIMORE COURT ASSOCIATES :
 :
v. :
 :
ZONING BOARD OF ADJUSTMENT OF :
THE CITY OF PHILADELPHIA :
LAW DEPARTMENT and :
PENNROSE PROPERTIES, INC. : NO. 99-1956

O R D E R

AND NOW, this 8th day of November, 1999, upon consideration of defendant Pennrose Properties, Inc.'s Motion to Remand and for Costs and Attorneys Fees (Docket No. 6), plaintiff Stephen Frempong-Atuahene's response thereto (Docket No. 7), plaintiff Baltimore Court Associates' Motion for Enlargement of Time to Respond to Defendant's Motion to Remand (Docket No. 6), and plaintiff Baltimore Court Associates' Reply to Defendants' Motion to Remand (Docket No. 8), IT IS HEREBY ORDERED that defendant Pennrose Properties, Inc.'s Motion to Remand and for Costs and Attorneys Fees is:

(1) **GRANTED** as to the remand motion and, therefore, this action is remanded to the Court of Common Pleas of Philadelphia County; and

(2) **GRANTED** as to the attorneys' fees and costs motion and, therefore, Pennrose shall submit time and expense records by which

the Court may calculate the reasonable attorneys' fees and costs actually incurred in this action.

Additionally, IT IS HEREBY ORDERED that plaintiff Baltimore Court Associates' Motion for Enlargement of Time to Respond to Defendant's Motion to Remand is **DENIED as moot.**\¹

BY THE COURT:

HERBERT J. HUTTON, J.

¹/ Plaintiff Baltimore Court Associates' ("BCA") Motion for Enlargement of Time to Respond to Defendant's Motion to Remand is DENIED as moot as BCA responded on June 11, 1999, to Pennrose's Motion.