

EDVA Judge Rules Supplemental Jurisdiction Is Not a Basis for Removal

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A recent EDVA decision reinforced the point that removal to federal court must be based on the existence of either federal question or diversity jurisdiction, but not supplemental jurisdiction.

In *Chandler v. Corizon Health et al.*, No. 3:22-cv-501, 2023 WL 4203466 (E.D. Va. June 27, 2023), the plaintiff suffered chemical burns after a caustic substance spilled on him while working at a jail. On February 16, 2022, the plaintiff filed a § 1983 civil rights action in the EDVA, alleging the defendants violated his Eighth Amendment right by denying him adequate medical care. On May 17, 2022, he filed a separate action against the same defendants in the Chesterfield County Circuit Court. In the state court action, the plaintiff alleged state-law claims of negligence and medical malpractice.

In response, on July 18, 2022, the defendant nurse removed the state court action to the EDVA on the basis of federal question jurisdiction. Specifically, the defendant claimed the state court action involved a federal question based on the plaintiff's separate Eighth Amendment federal court action. The plaintiff filed his motion for remand on August 3, 2022, arguing removal was "unnecessary" because a § 1983 civil rights action was currently pending before the court. He further emphasized the state court action was based only on theories of negligence and malpractice grounded in state law.

On December 7, 2022, Judge Novak granted the plaintiff's motion to remand, finding the court lacked subject matter jurisdiction over his state-law claims for negligence and medical malpractice. *Chandler v. Corizon Health et al.*, No. 3:22CV501 (DJN), 2022 WL 17487731 (E.D. Va. Dec. 7, 2022). Although Judge Novak acknowledged the "state court complaint *could* be read as stating a claim under Federal law," Judge Novak held "that is not exclusive, or even the most plausible interpretation of his allegations" and the plaintiff "has since clarified otherwise." Judge Novak explained the plaintiff made it amply clear that he was "eschewing claims based on federal law" and explicitly stated he was only raising state-law claims in the state court action.

Nevertheless, on January 4, the defendant filed a motion to reconsider the order remanding the action to state court. The defendant did not dispute Judge Novak's prior conclusion that the court lacked subject matter jurisdiction over the state court action. Instead, the defendant argued the court could exercise supplemental jurisdiction over the state-law claims and thus consolidate the state and federal actions.

On June 27, Judge Novak denied the defendant's motion for reconsideration, simply rejecting the defendant's

suggestion that supplemental jurisdiction provides a basis for removing an action to federal court. Judge Novak emphasized the defendant cited no persuasive authority in support of her position. The ruling provides cautionary instruction that removal must be based on either federal question or diversity jurisdiction, not supplemental jurisdiction.

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