

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
MISSOURI, CENTRAL DIVISION

David Johnson, et al. v. Boone County, Missouri, et al.

Johnson v. Boone County · No. 2:25-cv-4210-MDH · Decided January 13, 2026

SUMMARY

The United States District Court for the Western District of Missouri denied Plaintiffs’ motion to remand an action removed from Missouri state court. The court held that alleged deficiencies in the removal record and the timing or form of codefendants’ consents did not warrant remand, and that defendants’ failure to act in state court did not constitute abandonment of the right to a federal forum. The court lifted the discovery stay and directed Plaintiffs to respond to a pending motion to dismiss and the parties to submit a proposed scheduling order.

CASE DETAILS

COURT	United States District Court for the Western District of Missouri, Central Division
WRITING FOR THE COURT	Douglas Harpool
JURISDICTION	United States District Court for the Western District of Missouri, Central Division
DECIDED	January 13, 2026
DOCKET	2:25-cv-4210-MDH
DISPOSITION	remanded
PROCEDURAL POSTURE	Plaintiffs moved under 28 U.S.C. § 1447(c) to remand an action removed from Missouri state court, arguing that the notice of removal was procedurally defective, lacked unanimous consent, and included untimely or ineffective consents.
STANDARD OF REVIEW	The court reviewed procedural defects in removal under 28 U.S.C. §§ 1446 and 1447(c), applying Eighth Circuit precedent concerning the rule of unanimity, the timing and form of codefendant consent, and remand for technical defects.
PRECEDENTIAL VALUE	nonprecedential district court order

TOPICS

- civil procedure
- subject matter jurisdiction
- section 1983
- default

PRACTICE AREAS

Civil procedure

Federal jurisdiction

Removal and remand

Civil rights litigation

QUESTIONS PRESENTED

1. Whether the notice of removal was procedurally defective because it did not include all process, pleadings, and orders served on the removing defendants.
2. Whether the removal was invalid for lack of unanimity because some codefendants filed consents after the initial removal.
3. Whether codefendants abandoned their right to a federal forum or were unable to consent to removal because they allegedly failed to answer or otherwise defend in state court.
4. Whether alleged state-court defaults provided a basis for remand.

HOLDINGS

1. The alleged failure to attach the entirety of the state-court record did not require remand because the deficiency was technical, did not demonstrate false representations or coercion concerning consent, and could be cured without remand.
2. The later-filed consents did not invalidate removal or require remand because all codefendants ultimately consented, and the Eighth Circuit had not specified a fixed time limit for consent under 28 U.S.C. § 1446(b)(2)(C).
3. A defendant's failure to take action in state court did not constitute abandonment of the right to remove or consent to removal, and alleged default did not provide a basis for remand.

KEY QUOTATIONS

“Generally, each defendant must consent to removal within thirty days after being served with the initial pleading.” (Standard of Review)

“The Court has been reluctant to apply the unanimity requirement in a “hypertechnical and unrealistic manner.”” (Discussion)

“Congress could have defined with equal specificity the form of or time for consent but chose not to do so. Its failure to do so dissuades us from adopting a rule that places form over substance.” (Discussion)

FACTUAL BACKGROUND

Plaintiffs brought wrongful-death, medical-malpractice, and 42 U.S.C. § 1983 claims against numerous defendants in their official and individual capacities. Seven defendants removed the case on September 29, 2025, while the other defendants filed consents on that date or on later dates. The notice of removal included the state-court petition, notices, and a civil cover sheet, but allegedly omitted several motions, answers, service returns, and a motion for default. All codefendants ultimately filed consents to removal, and the parties participated in federal-court proceedings, including entry of a protective order and discovery.

PROCEDURAL HISTORY

Plaintiffs filed the action in the Circuit Court of Boone County, Missouri, asserting state-law wrongful-death and medical-malpractice claims and claims under 42 U.S.C. § 1983. Several defendants removed the action to the Western District of Missouri on September 29, 2025, and the remaining defendants filed consents to removal on September 29, October 1, October 9, and October 13. Plaintiffs moved to remand on October 28, 2025, challenging omissions from the removal record, unanimity, the timing of consents, and alleged default by certain defendants. The district court denied the motion to remand, lifted the discovery stay, and issued scheduling and briefing directives.

DISPOSITION

remanded

REMAND INSTRUCTIONS

No remand was ordered. The motion to remand was denied; the stay of discovery was lifted; plaintiffs were ordered to respond to the pending motion to dismiss within 20 days; and the parties were ordered to submit a proposed scheduling order within 20 days.

CASES CITED

- *Kokkonen v. Guardian Life Insurance Co. of America*, 511 U.S. 375 (1994)
- *Couzens v. Donohue*, 854 F.3d 508, 514-15 (8th Cir. 2017)
- *Griffioen v. Cedar Rapids & Iowa City Railway Co.*, 785 F.3d 1182, 1187-88 (8th Cir. 2015)