

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 20-61850-CIV-DIMITROULEAS

JARRET SILAGYI and
LAUREN SILAGYI,

Plaintiffs,

v.

DANIEL TOWRISS,

Defendant.

ORDER REMANDING CASE TO STATE COURT;
REFERRING ATTORNEY'S FEE MOTION TO MAGISTRATE JUDGE

THIS CAUSE is before the Court on Plaintiffs Jarret Silagy and Lauren Silagy (collectively, "Plaintiffs")' Motion to Remand to State Court, filed on September 21, 2020. [DE 5]. The Court has considered the Motion, Defendant Daniel Towriss ("Defendant")'s Response in Opposition [DE 12], Plaintiffs' Reply [DE 13], and is otherwise fully advised in the premises.

Federal courts are courts of limited jurisdiction. *See Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994); *Burns v. Windsor Ins. Co.*, 31 F.3d 1092, 1095 (11th Cir. 1994). District courts have an obligation to inquire into subject matter jurisdiction whenever the possibility that jurisdiction does not exist arises, *Cheffer v. Reno*, 55 F.3d 1517, 1523 (11th Cir. 1995), and must dismiss an action where it appears that the court lacks jurisdiction. Fed. R. Civ. P. 12(h)(3). "[B]ecause a federal court is powerless to act beyond its statutory grant of subject matter jurisdiction, a court must zealously insure that jurisdiction exists over a case, and should itself raise the question of subject matter jurisdiction at any point in the litigation where a doubt

about jurisdiction arises.” *Smith v. GTE Corp.*, 236 F.3d 1292, 1299 (11th Cir. 2001).

Uncertainties are resolved in favor of remand. *Petigny v. Wal-Mart Stores E., L.P.*, No. 18-23762-CIV, 2018 WL 5983506, at *1 (S.D. Fla. Nov. 14, 2018) (citing *Diaz v. Sheppard*, 85 F.3d 1502, 1505 (11th Cir. 1996)).

This matter arises from a vessel crash that occurred on or about December 31, 2019. Plaintiffs were hurtled from the vessel and out onto the rocks, resulting in injuries. Plaintiffs filed an *in personam* action for damages in Florida state court on July 30, 2020. *See* Complaint [DE 1-1]. The Complaint specifically invokes the “saving to suitors” clause of 28 U.S.C. § 1333. *See* [DE 1-1, ¶ 6]. Plaintiffs’ Complaint against Defendant sounds primarily in negligence and loss of consortium. The Complaint demands common law rights and remedies: damages for their personal injuries and a jury trial.

On September 11, 2020, Defendant filed a notice of removal to federal court, citing 28 U.S.C. §§ 1331, 1441, 1446 and 28 U.S.C. § 1333. *See* [DE 1] at p. 1. Plaintiffs move to remand, arguing that, without an independent ground for jurisdiction apart from the general maritime nature of their claims, Defendant cannot remove this case to federal court. The Court agrees and, accordingly, shall remand the case back to state court pursuant to 28 U.S.C. § 1447(c).

After careful consideration, the Court agrees with Plaintiff that, as there is no diversity jurisdiction over this action (all parties are citizens and residents of the state of Indiana), nor is there any other independent basis for jurisdiction beyond the general maritime nature of the claims, the federal district court lacks subject matter jurisdiction over this *in personam* maritime claim pursuing common law remedies. In so ruling, the Court adopts the majority view that the

2011 amendment to § 1441 does not permit the removal of general maritime claims without an independent basis for jurisdiction. *See Harper v. Wetnwild Water Sports, LLC*, 3:19CV4919-TKW-EMT, 2020 WL 773445, at *2 (N.D. Fla. Jan. 13, 2020) (“[C]ourts in the Eleventh Circuit have consistently relied on the saving to suitors clause ... as the basis for denying the removal of *in personam* maritime claims.”) (citing collected cases). The Court rejects the minority position on this issue reflected in *Ryan v. Hercules Offshore, Inc.*, 945 F. Supp. 2d 772 (S.D. Tex. 2013). Therefore, the Court will remand the case to state court for lack of subject matter jurisdiction.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. Plaintiffs’ Motion to Remand to State Court [DE 5] is **GRANTED**;
2. The Clerk is directed to **REMAND** this case to state court, **CLOSE** this case, and **DENY** as moot Defendant’s Motion to Dismiss Counts III, IV, and V [DE 4].
3. PURSUANT to 28 U.S.C. § 636 and the Magistrate Rules of the Local Rules of the Southern District of Florida, the Court **REFERS** Plaintiff’s Motion for Adjudication of Entitlement to Attorney’s Fees and Costs [DE 5] to United States Magistrate Judge Lurana S. Snow for appropriate disposition or report and recommendation.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida,

this 11th day of December, 2020.



WILLIAM P. DIMITROULEAS

United States District Judge

Copies furnished to:
Magistrate Judge Snow
Counsel of record

