

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 06-1700**

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IRA WHITE; CATHY WHITE; AMANDA WHITE; ADAM WHITE; LARRY J. BROWN; BRENDA BROWN; BILLY SAMMONS, JR.; DEBORAH SAMMONS; JORDAN SAMMONS; BRITTANY SAMMONS; ALICE YATES; FRANK COLEMAN; RODNEY D. JUDE; RODNEY M. JUDE; ANNETTE JUDE; MELISSA JUDE; NOAH JUDE; BRAYDEN LAMBERT; CAITLYN LAMBERT; CHARITY LAMBERT; RANDY LAMBERT; DEBORAH MURPHY; KERMIT MURPHY; KERMIT MURPHY, JR.; ALLISON CRABTREE; OSCAR ROBERTS; TROY STAFFORD; JUANITA PIGMAN; WILLIAM PIGMAN; ZELLA PIGMAN; RANDY DEWAYNE MEADOWS; TRACIE MEADOWS; MARISSA MEADOWS; RANDALL LESTER; KAYCE LESTER; ADAM RANDALL LESTER; TERESA STANLEY; THELMA ROBERTS; ALLEN SCHWALB; THELMA PRATER; RUBY BLANKENSHIP; RUSSELL ELKINS; ELLA MAE ELKINS; TAMMY ELKINS; TIMOTHY ELKINS; MIRANDA ELKINS; HANNA ELKINS; SHELLEY AMANDA CRABTREE; TAWNIA WHITT; THELMA ELKINS; RITA ELKINS; STEVEN ELKINS; WANDA MOLLETT; JACQUELINE MOLLETT; PEARL BROWN; PAUL J. BROWN; REGINA SCOTT; RONALD KEITH SCOTT; ROSEMARY JUSTICE; JAMES JUSTICE; FRANKLIN D. FULLER; DONNETTA BLANKENSHIP; ORVILLE BLANKENSHIP; AMY RUNYON; CHRISTINA BLANKENSHIP; JOSH RUNYON; DAVID DILLON; MARY ELIZABETH DILLON; DAVID EVANS; MAGOLA MAE EVANS; CHRISTOPHER S. BROWN; CARMELITA BROWN; ERNEST BROWN; OPAL CRABTREE; JOHNNY "BO" CRABTREE; PAUL DAVID BROWN; KATHELENE BROWN; MARY ANN CRABTREE; IRA EVANS; GLENNA FAE EVANS; FRANKLIN FINNELL; FRANK FULLER; FRANCIS FULLER; PRESTON CHILDS; LAURA CHILDS; SAMMY ROSE; AARON FARMER; TAMMY BROWN BENTLEY; SHEENA HUBERT; BRANDON HUBERT; TAMMY MOSLEY; TIM MOSLEY; TARA PENNINGTON; DAVID B. MCCOY; JUDY MCCOY; DEBORAH IRENE SAMMONS; BILLY SAMMONS, III; FAYE SAMMONS; BILLY IRVINE SAMMONS, IV; MATTHEW SAMMONS; MIRANDA SAMMONS;

RUSSELL PRINCE; VIRGINIA PRINCE; JAMES PRINCE;  
ASHLEY PRINCE; BOB VINICIL; BETTY BAISDEN;  
ORVILLE BAISDEN; SHAWN MICHAEL BAISDEN; CONNIE  
MULLINS; JERRY MULLINS; LAURA MULLINS; SHIRLEY  
MULLINS; TERRY MULLINS; CARRIE ANN PRATER;  
AMANDA RENEE HICKS; RICKY HICKS; CHRISTOPHER  
HICKS; ROBIN SMITH; CAITLYN SMITH; REBECCA E.  
ROBERTS; CHESTER ROBERTS; MARY ROBERTS; RANDY  
S. MEADOWS; CRYSTAL PRINCE; BALLARD PRINCE;  
ROBERT PRINCE; SAVANNAH PRINCE; ERIC PRINCE;  
LASSIE PRATER; KENNETH STROUD; CHRISTOPHER  
CHASE STROUD; KENNETH AARON STROUD; KEITH  
STATEN; CECELIA STATEN; JESSIE MEADOWS;  
JENNIFER SPENCE; JOSHUA SPENCE; DAVID JOE  
MOLLETT; ELMER MOLLETT; MEKIA MOLLETT; JOHN  
MAY; FRANCIS MAY; MATTHEW MAY; JANICE WALLEN;  
DOCK WALLEN; TIMOTHY WALLEN; HESTER RUNYON;  
ARNOLD RUNYON; LARRY BROWN, JR.; KATHY HARDIN;  
MAUDE RICE; MICHAEL LESTER; MICHAEL SHANE  
LESTER; JENNIFER BALDRIDGE; NALO JEAN ROBERTS;  
MARGIE ROBINETTE; JOHN ROBINETTE; JONATHAN  
ROBINETTE; STEVEN ROBINETTE; STEVE BALL; LISA  
WALLEN; MARY MARGARET MILAM; JIMMY MILAM;  
CHRISTOPHER BRIAN MILAM; CHRISTOPHER BRIAN  
MILAM, JR.; MARY SUE MEADOWS; RANDY MEADOWS;  
JOSEPH MEADOWS; AUSTIN MEADOWS; DANIEL  
MEADOWS; JAMES "BO" SCOTT, and Family; MADGE  
FRANCE; DAVID FRANCE; LUCY CHAFIN; ROY  
FRANKLIN; LISA FRANCIS; ETHAN FRANCIS; LARISA  
FRANCIS; LISA BLANKENSHIP; LEANN MICHELLE  
CENTERS; DESTINY ALEXANDRIA CENTERS; BEVERLY  
IVINS; AMY BAILEY; JAMES L. BAILEY; JAMES C.  
BAILEY; CODY BAILEY; BILLY HATFIELD; JIMMY  
HATFIELD; TIMMY HATFIELD; BRANDI HENSLEY;  
CATHY HENSLEY; DUSTI HENSLEY; JAMES HENSLEY;  
JAMIE HENSLEY; SHIRLEY HENSLEY; JAMES  
CRABTREE; WILLIAM OSCAR CRABTREE; JAMES D.  
CRABTREE; JULIE ANN CRABTREE; JESSICA DOTSON;  
BRIAN DOTSON; VERONICA DOTSON; VICTORIA  
DOTSON; BRANDON DOTSON; JIMMY HENSLEY; JOANIE  
DOTSON; JOINE FINNELL; EDNA MARIE FINNELL;  
INGA HURLEY; BILL HURLEY; ESTALENE LESTER;  
LEAH LESTER; EDDIE DILLON; ANITA DILLON; MEGAN  
DILLON; ERIC DILLON; DEBORAH STANLEY; DOROTHY  
SPARKS; DAVID WADE HENSLEY; MARGARET ADKINS;  
JAMES EDWARD PRINCE; LINDA SUE NORTH PRINCE;  
JERRY LEE FIELDS; FRANK ELWOOD FIELDS; SHAYNE

ANTHONY FIELDS; MISTY DAWN MILLER DILLON;  
HAILEY DAWN MILLER DILLON; JAMES FIELDS; BETH  
ANN WALLEN; ALYSA WALLEN; MARK ADKINS; MARSHA  
O. ADKINS; DAKOTA BREWSTER; MARY HELEN YATES;  
MELVIN CHARLES MCCOY; MADONNA MCCOY; AMANDA  
DAWN MCCOY; MELVIN LEE MCCOY; DAVID MICHAEL  
MCCOY; MYRA K. SLONE; MISTY DAWN FIELDS  
CUNNINGHAM; JENNIFER LYNN JOHNSON ENDICOTT;  
BRITTANY LYNN JOHNSON; DEBRA ANN MILLER; DAVID  
B. YATES; BETTY FIELDS AYERS; EUGENE CLINE;  
MARK MARCUM; MARGARET ANN WHITT; MARY ANN  
ROBERTS; JACOB ANDREW LOPEZ; JAQLYN MARIE  
LOPEZ; JESSE JACINTO LOPEZ; MARCUS CODY  
ADKINS; MELISSA BENTLEY; AUSTIN PAUL RYAN  
BROWN; KURASTIN PAIGE BROWN; MICHAEL TODD  
ADKINS; MARK STANLEY; NATASHA LYNN STANLEY;  
FRANCIS HICKS MAY; DREAMA LYNN MARCUM GANNON  
HOLMES; CHRISTINA MICHELLE H. OOTEN; BILL  
HENRY; CHARLES EDWARD STANLEY; TERESA ANN  
STANLEY; CHRISTOPHER LEE HICKS; JEREMY DAVID  
MCCOY; ALICE OOTEN; CAROL FRANCIS LOCKARD  
MAYNARD; CHARLOTTE SEWARD; DARLENE HICKS;  
BARBARA ANN CRABTREE HELVEY; OPAL MAY ROBERTS;  
RICHARD LEWIS; ORTHA FRANCE; JESSICA LYNN  
BOWMAN BLANKENSHIP; TIFFANY NICOLE PRICE;  
VICKY LYNN WHITE; ROSCOE WHITE; RUTH WHITE;  
SHEILA RENA MAYNARD; PHILLIP BRYANT COLEMAN;  
ARLEEN FAYE COLEMAN; JOHN ALLEN DILLON;  
JONATHAN CLIFFORD WHITT; RUDOLPH SCOTT  
SEEFELDT; NANCY ANN LOCKARD SEEFELDT; GARTH  
SIRCHER; ZACHARIAH SCOTT BROOKS SEEFELDT;  
ARTHUR DINGESS; CHARLES TRAVIS LOCKARD; ANGELA  
RHONDA NICOLE ANDERSON LOCKARD; CHARLES TRAVIS  
LOCKARD, JR.; MICHAELA NICOLE LOCKARD; SHARON  
LESTER; MISTIE NICOLE PRINCE; KENNETH PATRICK  
HENSLEY; CARL BOWMAN; LINDA GAYE CLINE BOWMAN;  
CARLA JO BOWMAN; DAKOTA LEE EARL BLANKENSHIP;  
NORMA JEAN HENSLEY CLARK; ROBERT JAMES CLARK,  
JR.; JOSHUA JAMES CLARK; PEGGY SUE MILLER;  
PAUL MICHAEL SLONE; DONNA FIELDS SLONE;  
ANGELEA CHRISTINA FIELDS; PEGGY SUE HENSLEY  
MAY; CHESTER LAWRENCE MAY, JR.; MATTHEW  
LAWRENCE MAY; SABRINA MARIE DOLL; SHARON B.  
ADKINS; MICHAEL ADKINS; DOROTHY P. POPE;  
CHRISI CALODNIA PRINCE; ANGELA MARIE BOWMAN;  
FRANKIE DALE HICKS; CHRISTINE PRICE;  
ALEXANDRIA RACHELLE LAWSON FIELDS; ROBERT

JOSEPH PRICE; CHEYENNE JANE FIELDS; ELMER "BO"  
COLLINS; CHRISTY COLLINS; JOEY COLLINS;  
FRANCES MOLLET ROER; DONALD L. ROER; DIANA L.  
ROER; ERNIE HALL; HANSEL LEE COLLINS; NINA  
HATFIELD; OPAL L. JERVIS; TOM D. JERVIS; JOYCE  
ANN HENSLEY PATTON; KRISTA DONLEY; CHRISTOPHER  
MATTHEW BROWN; LISA RENEE TYGART BROOKS;  
RONALD H. BROOKS, II; MARK YORK; BARB S. YORK,

Plaintiffs - Appellees,

versus

RAWL SALES AND PROCESSING COMPANY; MASSEY  
ENERGY COMPANY,

Defendants - Appellants.

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Appeal from the United States District Court for the Southern  
District of West Virginia, at Charleston. Robert C. Chambers,  
District Judge. (2:05-cv-00965; 2:05-cv-0966; 2:05-cv-0987;  
2:05-cv-1132; 2:05-cv-1151; 2:05-cv-1152; 2:05-cv-1153;  
2:05-cv-1154)

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Submitted: August 17, 2007

Decided: September 7, 2007

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Before NIEMEYER, TRAXLER, and SHEDD, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Daniel L. Stickler, Albert F. Sebok, Brian J. Moore, JACKSON KELLY,  
P.L.L.C., Charleston, West Virginia, for Appellants. Van Bunch,  
BONNETT, FAIRBOURN, FRIEDMAN & BALINT, P.C., Phoenix, Arizona;  
Martin R. Smith, Jr., Kevin W. Thompson, SMITH & THOMPSON, Cross  
Lanes, West Virginia, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Rawl Sales and Processing Company and Massey Energy Company (Defendants) appeal from the district court's order granting the Plaintiffs' motion to amend their complaint by dismissing the sole federal claim (Count 12) and remanding the remaining state law claims to West Virginia state court. The Plaintiffs have moved to dismiss the appeal for lack of jurisdiction under 28 U.S.C. § 1447(d) (2000).

A district court's order remanding a case to state court is generally not reviewable. 28 U.S.C. § 1447(d). Appellate review of remand orders is permitted, however, when the district court's order is based on its decision to decline to exercise discretionary jurisdiction under 28 U.S.C. § 1367(c) (2000). See Jamison v. Wiley, 14 F.3d 222, 233 (4th Cir. 1994); see also Battle v. Seibels Bruce Ins. Co., 288 F.3d 596, 606 n.16 (4th Cir. 2002) (explaining that, under "well-settled precedent," remands based on § 1367(c) are appealable final orders under 28 U.S.C. § 1291 (2000)); Hinson v. Norwest Fin. S.C. Inc., 239 F.3d 611, 615 (4th Cir. 2001).

Here, the district court specifically declined to exercise jurisdiction under § 1367(c), citing this court's decision in Hinson. Accordingly, we have jurisdiction to review the district court's remand order, and we deny the motion to dismiss the appeal.

We have reviewed the record, the parties' briefs, and the district court's opinion and find no reversible error in the court's decision to remand the underlying cases to state court. We also find no abuse of discretion in the district court's decision to deny the Defendants' request for reimbursement of costs associated with removal. We therefore affirm on the reasoning of the district court. White v. Rawl Sales & Processing, Inc., Nos. 2:05-cv-00965; 2:05-cv-0966; 2:05-cv-0987; 2:05-cv-1132; 2:05-cv-1151; 2:05-cv-1152; 2:05-cv-1153; 2:05-cv-1154 (S.D. W. Va. May 8, 2006).

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED