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IT'S TIME FOR CONGRESS TO SNAP TO IT AND AMEND 28 U.S.C. § 1441(1)(B)(2) TO PROHIBIT SNAP REMOVALS THAT CIRCUMVENT THE FORUM DEFENDANT RULE

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INTRODUCTION

Litigants and their lawyers continue to believe that the litigation forum will have a substantial, if not decisive, effect on the outcome of a civil torts case.[1] Plaintiffs generally prefer state court while defendants generally prefer federal court.[2] In the high-stakes battle over judicial

1. *See* L. Clark Hicks, Jr., *Snap Removal and the Fifth Circuit Decision in* Texas Brine*: A Salty Soup for Civil Litigants*, 44 Q. 4, 4 (2020) ("Plaintiffs' lawyers often say the most important decision in litigation is where to file a lawsuit."); Lee Hoyle, *Federal Court in a Snap: "Snap" Removal May Assist in Avoiding the Home State Defendant Rule*, KPM L. (Aug. 21, 2018), https://www.kpmlaw.com/federal-court-in-a-snap-snap-removal-may-assist-in-avoiding-the-home-state-defendant-rule ("The first and often most important fight in most civil cases is where the case will be litigated. . . . A defendant's ability to remove a state court action to federal court can greatly impact the litigation as a whole."); Paul Rosenthal, *Improper Joinder: Confronting Plaintiff's Attempts to Destroy Federal Subject Matter Jurisdiction*, 59 AM. U. L. REV. 49, 55 (2009) ("Forum selection is often the most important strategic decision a party makes . . . .").

2. Quentin Brogdon, *Fifth Circuit Blesses "Snap Removal" by Out-of-State Defendants,* TEX. LAW. (May 6, 2020, 7:16 PM), https://www.law.com/texaslawyer/2020/05/06/fifth-circuit-blesses-snap-removal-by-out-of-state-defendants/ ("Defendants generally prefer to be in federal court."); Lindsay C. Omolecki, *Safe at Home? Preservice Removal and the Forum Defendant Rule*, A.B.A. (Aug. 22, 2018), https://www.americanbar.org/groups/litigation/committees/products-liability/articles/2018/summer2018-safe-at-home-

forum, plaintiffs and defendants have long engaged in various tactics to secure a more favorable forum.[3] Plaintiffs will often structure civil tort cases so as to prevent removal from state to federal court by: (i) excluding claims based upon federal law, thereby defeating federal question jurisdiction; (ii) naming a non-diverse defendant, thereby destroying complete diversity; (iii) naming an in-state defendant, thereby defeating removal due to the operation of the forum defendant rule which prohibits removal based upon diversity if the case involves a defendant who is a citizen of the forum state; or (iv) demanding $75,000 or less, thereby falling short of the amount-in-controversy requirement.[4] In cases filed in state court, defendants who have the option to remove almost always do so.[5] Such forum shopping is permissible and even prudent when authorized by governing law and procedural rules.[6]

preservice-removal-and-the-forum-defendant-rule/ ("Defendants are always looking to improve venue by removing a case to federal court whenever the opportunity arises. Plaintiffs, on the other hand, tend to prefer state court and often strategically name a local defendant to prevent removal based on the 'forum defendant rule' found in 28 U.S.C. § 1441(b)(2)."); *see also* E. Farish Percy, *The Fraudulent Joinder Prevention Act of 2016: Moving the Law in the Wrong Direction*, 62 VILL. L. REV. 213, 213 n.2 (2017) [hereinafter Percy, *Fraudulent Joinder Prevention Act*] (citing empirical research demonstrating an actual benefit to defendants who remove and noting that even absent an actual benefit, a perceived benefit impacts forum selection).

3. *See* E. Farish Percy, *Inefficient Litigation Over Forum: The Unintended Consequence of the JVCA's "Bad Faith" Exception to the Bar on Removal of Diversity Cases After One Year*, 71 OKLA. L. REV. 595, 602–03 (2019) [hereinafter Percy, *Inefficient Litigation*]; E. Farish Percy, *Making a Federal Case of It: Removing Civil Cases to Federal Court Based on Fraudulent Joinder*, 91 IOWA L. REV. 189, 191 (2005) [hereinafter Percy, *Making a Federal Case of It*].

4. *See* Percy, *Inefficient Litigation*, *supra* note 3, at 614–21.

5. *See, e.g.*, Jeffrey M. Beyer, *Removal to Federal Court and the 'Forum Defendant Rule': Congress Enters 'Snap' Removal Thicket*, N.J. L. J. (Mar. 5, 2020, 12:00 PM), https://www.law.com/njlawjournal/2020/03/05/removal-to-federal-court-and-the-forum-defendant-rule-congress-enters-snap-removal-thicket/ (observing that corporate defendants prefer to litigate in federal court and noting that "removal of a state court lawsuit to federal court can be a powerful tactic in any defendant's arsenal"); Brogdon, *supra* note 2 (observing that defendants who have a right to remove "almost always avail themselves of that opportunity"); Keith Miller, *So You Want to Remove a Case to Federal Court*, N.J. LAW. 42, 42 (Aug. 2015), https://www.rwmlegal.com/Articles/So-You-Want-To-Remove-A-Case-To-Federal-Court.pdf (observing that defense "practitioners prefer to remove cases to federal court whenever possible").

6. *See* Percy, *Inefficient Litigation*, *supra* note 3, at 603; Rosenthal, *supra* note 1, at 56–57; *see also* Forrest v. Johnson & Johnson, No. 4:17-CV-01855-JAR, 2017 WL 3087675, at *2 (E.D. Mo. July 20, 2017) (noting that even though "Plaintiffs clearly sought to secure an advantageous forum in the state court and joined certain [p]laintiffs for the very purpose of avoiding federal jurisdiction over this case" such joinder was not in bad faith because it was permissible under existing law); Aguayo v. AMCO Ins. Co., 59 F. Supp. 3d 1225, 1273

In recent years, however, defendants have increasingly circumvented the forum defendant rule by taking advantage of what is widely viewed as a technical loophole in the removal statute.[7] The justification for the forum defendant rule is the same justification most frequently cited for original diversity jurisdiction—that diversity jurisdiction is necessary to prevent potential bias or prejudice an out-of-state defendant might suffer in state court.[8] "[T]he forum defendant rule disallows federal removal premised on diversity in cases where the primary rationale for diversity jurisdiction—to protect defendants against presumed bias of local courts—is not a concern because at least one defendant is a citizen of the forum state."[9] The rule preserves plaintiffs' forum selection in cases where it less urgent to provide a federal forum in order to protect defendants from local prejudice.[10]

The current iteration of the forum defendant rule prohibits removal of a case based upon diversity jurisdiction if a "properly joined and served defendant" is a citizen of the state in which the state court action was filed.[11] Although it is widely agreed that the purpose of the forum defendant rule is to prohibit removal of cases involving one or more forum defendants regardless of the number of non-forum defendants,[12] defendants in recent years have increasingly removed cases involving forum defendants who had not been served by the plaintiff at the time of

(D.N.M. 2014) ("There is nothing wrong with plaintiffs having a preference for state court, nor is there anything invidious or 'bad faith' about using deliberate tactics to defeat federal jurisdiction.").

7. *See* Valerie M. Nannery, *Closing the Snap Removal Loophole*, 86 U. CIN. L. REV. 541, 550 (2018); Omolecki, *supra* note 2.

8. *See* Scott Dodson, *Beyond Bias in Diversity Jurisdiction*, 69 DUKE L.J. 267, 268–69, 271–81 (2019); Percy, *Making a Federal Case of It*, *supra* note 3, at 195–99; Jeffrey W. Stempel et al., *Snap Removal: Concept; Cause; Cacophony; and Cure*, SCHOLARLY COMMONS @ UNLV L. 1, 6–13 (May 2020), https://scholars.law.unlv.edu/cgi/viewcontent.cgi?article=2318&context=facpub.

9. Morris v. Nuzzo, 718 F.3d 660, 665 (7th Cir. 2013); *see also* Lively v. Wild Oats Mkts., Inc., 456 F.3d 933, 940 (9th Cir. 2006); Dresser Indus., Inc. v. Underwriters at Lloyd's of London, 106 F.3d 494, 499 (3d Cir. 1997); *Examining the Use of "Snap" Removals to Circumvent the Forum Defendant Rule: Hearing Before the H. Comm. on the Judiciary, Subcomm. on Cts., Intell. Prop. & the Internet,* 116th Cong. 12 (2019) [hereinafter *Hearing*] (statement of Arthur D. Hellman, Professor of Law Emeritus, University of Pittsburgh School of Law) ("Congress established the forum defendant rule based on the premise that there is no risk of state-court bias against an out-of-state defendant as long as least one in-state defendant is a party on the same side.").

10. *Morris*, 718 F.3d at 665.

11. 28 U.S.C. § 1441(b)(2) (2018).

12. *See* Matthew J. Lavinsky, *Joined and Served: Pre-Service Removal and the Forum Defendant Rule*, 32 No. 3 TRIAL ADVOC. Q. 29, 29–30 (2013).

removal, arguing that the removal statute only prohibits removal if a forum defendant has been "properly joined ***and served***."[13] This practice is commonly referred to as "snap removal."[14]

Although snap removals began occurring on a small scale more than twenty years ago,[15] the frequency of pre-service removal has dramatically increased in the past few years, in large part because of two developments. First, the large majority of state courts have adopted electronic filing systems, greatly enhancing corporate defendants' ability to monitor state court dockets for the purpose of immediately identifying cases in which they have been sued, thereby giving them the opportunity to remove prior to service.[16] Second, within the past two years, three circuit courts have held that snap removals are authorized by a "plain meaning" interpretation of the "properly joined and served" language in section 1441(b)(2).[17] The Third Circuit was the first to give the green-light to snap removals in *Encompass Insurance Co. v. Stone Mansion Restaurant Inc.*,[18] decided in August 2018. The Second Circuit followed suit in *Gibbons v. Bristol Myers Squibb Co.*,[19] decided in March 2019. Most recently, the Fifth Circuit endorsed snap removals in *Texas Brine Co. v. American Arbitration Association, Inc.*,[20] decided in April 2020.

13. *See, e.g.*, *id.* at 30–31 (emphasis added).

14. Judge Jane Boyle was the first federal judge to use the term "snap removal." Breitweiser v. Chesapeake Energy Corp., No. 3:15-CV-2043-B, 2015 WL 6322625, at *2 (N.D. Tex. Oct. 20, 2015). Although it has been referred to as "jack rabbit removal" by some, *see, e.g.*, Schilmiller v. Medtronic, Inc., 44 F. Supp. 3d 721, 727 (W.D. Ky. 2014), it is now almost universally referred to "snap removal," *see, e.g.*, Tex. Brine Co. v. Am. Arb. Ass'n, 955 F.3d 482, 485 (5th Cir. 2020) ("The jargon for removal prior to service on all defendants is 'snap removal.'").

15. *See* Nannery, *supra* note 7, at 545.

16. *See Hearing*, *supra* note 9, at 6–7 (statement of Ellen Relkin, Defective Drugs and Devices Practices Group Co-Chair, Weitz & Luxemberg, P.C.) (noting that snap removals have "exploded onto the scene at an exponential rate" due to the advent of widespread electronic filing in state courts and recent appellate court opinions holding that snap removals are permissible); Hicks, *supra* note 1, at 5 ("The snap removal technique is now commonly used throughout the country, and electronic filing systems make the landscape even more perilous for plaintiffs."); Nannery, *supra* note 7, at 545. In some of the cases identified by the author's study, the defendants explicitly admitted in the notice of removal that they learned of the state court lawsuit because they were actively monitoring state court electronic dockets. *See* Cases 302, 304 & 352.

17. *See Hearing*, *supra* note 9, at 6–7 (statement of Ellen Relkin, Defective Drugs and Devices Practices Group Co-Chair, Weitz & Luxemberg, P.C.).

18. 902 F.3d 147, 153–54 (3d Cir. 2018).

19. 919 F.3d 699, 704–07 (2d Cir. 2019).

20. 955 F.3d 482, 486 (5th Cir. 2020).

Not only have non-forum defendants successfully removed cases before service on the forum defendant, but forum defendants have engaged in widespread pre-service removal, often in cases in which there is no out-of-state defendant.[21] Not only are defendants taking advantage of the snap removal tactic, some forum defendants are evading service of process in order to facilitate pre-service removal and arguing that such evasive conduct is permissible and does not preclude removal.[22]

Imagine the following scenario: Numerous plaintiffs have suffered injury as the result of hip implant devices manufactured by the same corporation. The plaintiffs begin to file separate products liability lawsuits in state court in New Jersey, where the defendant manufacturer was incorporated and has its principal place of business. Given that products liability claims based upon design defect or faulty warning challenge the entire product line, numerous lawsuits are likely. The plaintiffs' ability to sue the defendant manufacturer in the plaintiffs' home state is limited by the Supreme Court's recent personal jurisdiction precedent limiting general jurisdiction to states where the defendant is essentially at home (the state of incorporation or principal place of business),[23] and limiting specific jurisdiction to states somehow targeted by the defendant manufacturer's marketing or distribution system[24] or states where the defendant's affiliations in the state have a sufficient

21. *See, e.g.*, *Encompass Ins. Co.*, 902 F.3d at 153–54 (finding snap removal proper in a case involving a single forum defendant and no non-forum defendants).

22. *See infra* notes 171–74 and accompanying text.

23. *See* Daimler AG v. Bauman, 571 U.S. 117, 137 (2014) (holding that general jurisdiction over a corporate defendant exists when its affiliations with the state are so continuous and systemic so as to render it essentially at home there and observing that the state of incorporation and the state where the principal place of business is maintained are the paradigm bases for the exercise of general jurisdiction over a corporate defendant); Goodyear Dunlop Tire Operations S.A. v. Brown, 564 U.S. 915, 924 (2011) (same). Although the *Daimler* court acknowledged that there may be other corporate affiliations with a state that might give rise to general jurisdiction, it refused to recognize general jurisdiction based upon a corporation's "substantial, continuous and systematic course of business." *Daimler*, 571 U.S. at 137–38.

24. *See* J. McIntyre Mach., Ltd. v. Nicastro, 564 U.S. 873, 882 (2011) (plurality opinion) (regarding specific jurisdiction in stream-of-commerce cases concluding that "[t]he defendant's transmission of goods permits the exercise of jurisdiction only where the defendant can be said to have targeted the forum; as a general rule, it is not enough that the defendant might have predicted that its goods will reach the forum State"). Attending trade shows within a state, selling goods to a distributor within a state, or altering a product to conform to state law may constitute sufficient "targeting" to support personal jurisdiction. *Id.* at 882–88.

connection to *each* plaintiff's injuries.[25] All of the plaintiffs, regardless of their citizenship, are able to sue the defendant manufacturer in state court in New Jersey. A state court would have subject matter jurisdiction over tort claims and would also be able to exercise personal jurisdiction over the defendant manufacturer, given that the manufacturer was incorporated in New Jersey and has its principal place of business there.

The defendant manufacturer, however, desires to secure a federal forum rather than defend the lawsuits in state court. The defendant, aware that the Third Circuit condoned snap removals in August 2018,[26] begins to monitor the state court electronic docket so that it may remove products liability cases filed against it before it is served with process. Plaintiffs' lawyers wise-up and begin instructing their process servers to appear at corporate headquarters with a mobile printer so that the process servers may print the complaint immediately after it has been filed in state court and serve it on the appropriate corporate officer or agent before the corporate manufacturer has a chance to remove the case to federal court.

In response, the defendant manufacturer begins to evade service of process at corporate headquarters. When a process server shows up at corporate headquarters and requests to see a corporate officer or agent, the staff and/or security guards inform the process server that the corporate officer or agent is on her way down. Meanwhile, the corporation or its counsel investigates the recent state court electronic filings, discovers that a plaintiff has filed an action against the corporation in state court, electronically files a notice of removal in federal district court, and then informs the officer or agent that she can go meet the process server.

In response, plaintiffs' attorneys begin to attempt service of process by serving the corporation's authorized agent for service of process. In response, the defendant manufacturer, despite having been properly served via its registered agent for service of process, continues to remove cases arguing that its service-evading behavior was not improper and further asserting based upon a distorted interpretation of precedent, that service upon its registered agent for service of process does not constitute service for purposes of section 1441(b)(2).

25. *See* Bristol-Myers Squibb Co. v. Super. Ct. of Cal., 137 S. Ct. 1773, 1781–82 (2017) (holding that each plaintiff's claim must be related to the defendant's contact with the forum in order for the court to be able to exercise personal jurisdiction over the defendant with respect to multiple plaintiffs' claims).

26. *See Encompass*, 902 F.3d at 153–54.

Although this scenario might read like something in a John Grisham legal thriller, it is actually based on the allegations in more than a dozen cases that have been snap removed by the same defendant manufacturer to federal district court in New Jersey.[27] These snap removals are arguably egregious examples of abuse of the removal process given the defendant's alleged service-evading behavior and assertion of spurious legal arguments regarding the sufficiency of service of process upon its registered agent. Even absent such circumstances, however, snap removals clearly circumvent the forum defendant. Tellingly, one defense lawyer characterized snap removal as "a land mine for plaintiffs' practitioners and a gold mine for the defense bar."[28]

Many judges, practitioners, academics, and legislators believe the time has come to put an end to snap removal. The House Judiciary Committee held a hearing in November 2019 examining snap removal.[29] On February 7, 2020, members of the committee introduced H.R. 5801, a bill to enact the Removal Jurisdiction Clarification Act of 2020.[30] Although the Act would not foreclose snap removal, it would authorize a plaintiff to move for remand if the plaintiff perfects service of process on the forum defendant within thirty days after removal.[31] The Judicial Conference of the United States' Committee on Federal-State Jurisdiction continues to consider legislative proposals to address snap removal.[32] Academics have made various proposals to end or curtail snap

27. *See Hearing*, *supra* note 9, at 10–13 (statement of Ellen Relkin, Defective Drugs and Devices Practices Group Co-Chair, Weitz & Luxemberg, P.C.). Relkin, who represents plaintiffs in numerous cases against Howmedica Corporation, describes Howmedica's "unfathomable abuse of snap removals" and purposeful evasion of service of process. *Id.* at 10, 12. In fourteen cases against Howmedica, Howmedica removed based upon *Encompass*. *See id.* at 12. *See* Appendix of Cases, Nos. 250–56, 279–80, 290–91, 294, 300, 303. Plaintiffs moved to remand, arguing that even though Howmedica attempted to evade service of process at corporate headquarters in some of the cases, plaintiffs served Howmedica's registered agent for service of process prior to removal in all fourteen cases. *See infra* note 136 and accompanying text. Howmedica responded by arguing that evasion of process is permissible and that service on its registered agent for service of process did not constitute service for purposes of Section 1441(b)(2). *Id.*

28. *See* Hicks, *supra* note 1, at 6.

29. *See generally Hearing*, *supra* note 9.

30. Removal Jurisdiction Clarification Act of 2020, H.R. 5801, 116th Cong. (2020).

31. *Id.* § 2(a).

32. *See* JUD. CONF. OF THE U.S., REPORT OF THE PROCEEDINGS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES 13–14 (Sept. 17, 2019) https://www.uscourts.gov/sites/default/files/judicial_conference_report_of_the_proceedings_september_2019_0.pdf; JUD. CONF. OF THE U.S., REPORT OF THE PROCEEDINGS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES 21 (Mar. 12, 2019), https://www.uscourts.gov/sites/default/files/2019-03_proceedings_0.pdf; JUD. CONF. OF THE U.S., REPORT OF THE PROCEEDINGS OF THE

removals.[33] The time has come for Congress to realize that allowing the practice of snap removal to remain unchecked will cause grave and widespread harm while serving no public policy goal given that the "properly joined and served" language does not effectively thwart plaintiffs' attempts to defeat removal by fraudulently joining a forum defendant whom the plaintiff has no intention of pursuing. Even if Congress does not act on the pending proposed legislation during the 116th Congress, it should expeditiously address the unintended loophole caused by the "properly joined and served" language and reform the removal statutes so as to preclude snap removal.

Part I of this Article reviews the varied court opinions interpreting the "properly joined and served" language in section 1441(b)(2). Part II of this Article examines the quantitative extent to which snap removals have occurred in recent years within the Third Circuit, which first approved snap removal when it decided *Encompass* in August 2018.[34] The author identified 355 cases in which pre-service removal to federal district courts within the Third Circuit was attempted during the period from August 22, 2018 through June 30, 2020. Part II examines the extent to which such removals were ultimately successful, as well as the grounds upon which plaintiffs moved for, and were granted, remand. Part II also explores other demographic data revealed by the study, including the types of cases in which pre-service removal was attempted and the number of cases that exclusively involve forum defendants.

Part III explores the qualitative problems caused by snap removals. Recognition of snap removal raises federalism concerns because extensive snap removal will retard states' ability to develop tort law as well as other state law.[35] Pre-service removal increases litigation costs, encourages gamesmanship by the parties, generates inefficient remand litigation regarding the propriety of pre-service removal, and establishes a system whereby the defendant's right to remove is determined by the speed with which the plaintiff serves the forum defendant. Part IV of the

JUDICIAL CONFERENCE OF THE UNITED STATES 20 (Sept. 13, 2018), https://www.uscourts.gov/sites/default/files/2018-09_proceedings.pdf.

33. *See, e.g.*, Arthur Hellman et al., *Neutralizing the Stratagem of "Snap Removal": A Proposed Amendment to the Judicial Code*, 9 FED. CTS. L. REV. 103, 108–10 (2016) (proposing a specific statutory amendment); Nannery, *supra* note 7, at 574–86 (discussing numerous potential remedies); Stempel et al., *supra* note 8, at 52 (critiquing proposals and advocating for a specific legislative amendment).

34. Encompass Ins. Co. v. Stone Mansion Rest., Inc., 902 F.3d 147 (3d Cir. 2018).

35. *See generally* Percy, *Fraudulent Joinder Prevention Act, supra* note 2.

Article explains why congressional action, rather than judicial reform, is necessary.

Part V considers and critiques the proposed Removal Jurisdiction Clarification Act of 2020 (H.R. 5801), as well as other suggested legislative remedies. Some proposals, including H.R. 5801, have been referred to as "snapback" proposals because they would not prohibit snap removal on the front-end, but instead would authorize the plaintiff to move for remand after service on the forum defendant within a specified time period.[36] Part V argues that the "snapback" proposals are problematic because they will generate remand litigation and are unlikely to effectively thwart plaintiffs' strategic joinder or forum defendants given that plaintiffs simply have to serve the forum defendant to obtain remand. Part V concludes by urging Congress to completely prohibit pre-service removal be deleting the "and served" language from section 1441(b)(2). This proposal is simple, will not generate remand litigation, and will faithfully serve the forum defendant rule's purpose. Given that there are few cases in which a plaintiff is willing to name a forum defendant to defeat removal but unwilling to serve the forum defendant to defeat removal, any legislative amendment that retains a plaintiff's failure to serve the forum defendant as a proxy for the plaintiff's lack of intent to pursue the forum defendant is likely to be largely ineffective and more trouble than it is worth.

I. COURTS' INTERPRETATION OF SECTION 1441(B)(2)

Section 1441(b)(2) provides:

> A civil action otherwise removable solely on the basis of the jurisdiction under section 1331 (a) of this title may not be removed if any of the parties in interest ***properly joined and served*** as defendants is a citizen of the State in which such action is brought.[37]

The forum defendant rule has been included in the Judicial Code since its inception in 1789.[38] The Judiciary Act of 1789 conferred removal jurisdiction in cases commenced by "a citizen of the state in which the suit is brought against a citizen of another state" if the amount-in-

36. *See Hearing*, *supra* note 9 (supplementary statement of Arthur D. Hellman, Professor of Law Emeritus, U. of Pitt. Sch. Of Law).

37. 28 U.S.C. § 1441(b)(2) (2018) (emphasis added).

38. The Judiciary Act of 1789, Act of Sept. 24, 1789, ch. 20, § 12, 1 Stat. 73, 79 (1789).

controversy exceeded $500.[39] The "properly joined and served" limitation was not added until 1948.[40] Although it is widely agreed that the legislative history of the act sheds little light on what Congress intended by the "properly joined and served language,"[41] it is also widely agreed that Congress did not intend to abrogate or curtail the forum defendant rule.[42]

A. Circuit Courts of Appeal

1. Third Circuit

In *Encompass Insurance Co. v. Stone Mansion Restaurant Inc.*,[43] the Third Circuit held that removal of a case involving a sole forum defendant was proper because the forum defendant had not yet been served.[44] The litigation arose out of a single-car accident in which the intoxicated driver was killed and the passenger was severely injured.[45] The passenger sued the intoxicated driver's estate and other defendants, including Stone Mansion, a restaurant that allegedly over-served the driver.[46] Encompass, an automobile liability insurer, settled the claims against the estate of its insured driver as well as the claims against other defendants.[47]

Aware that Encompass was contemplating suing Stone Mansion for contribution, Stone Mansion's counsel informed Encompass's counsel that he would accept service of process on behalf of Stone Mansion in the event Encompass filed suit.[48] After Encompass, an Illinois citizen, filed suit against Stone Mansion, a Pennsylvania citizen, in Pennsylvania state court, Encompass's counsel emailed Stone Mansion's counsel a copy

39. *Id.*
40. Hellman et al., *supra* note 33, at 108.
41. *See, e.g.*, Sullivan v. Novartis Pharms., Corp., 575 F. Supp. 2d 640, 644 (D.N.J. 2008) (noting that the court was unable to locate any indication of intent by Congress or the Advisory Committee on Revision of the Judicial Code after conducting a thorough examination of the legislative history); Hellman et al., *supra* note 33, at 108; Nannery, *supra* note 7, at 548; Stempel et al., *supra* note 8, at 40.
42. *See, e.g.*, *Sullivan*, 575 F. Supp. 2d at 645 (concluding that nothing in the legislative history indicates that Congress intended to curtail the forum defendant rule); Stempel et al., *supra* note 8, at 40.
43. Encompass Ins. Co. v. Stone Mansion Rest., Inc., 902 F.3d 147 (3d Cir. 2018).
44. *Id.* at 152–54.
45. *Id.* at 149.
46. *Id.*
47. *Id.*
48. *Id.* at 150.

of the complaint and a service acceptance form.[49] Stone Mansion's counsel did not immediately return the service acceptance form.[50] Three days later, Stone Mansion's counsel notified Encompass's counsel that Stone Mansion planned to remove before accepting service given that Encompass was seeking more than $75,000.[51] After filing a notice of removal, Stone Mansion's counsel then returned the service acceptance form.[52] The District Court denied Encompass's motion to remand and then granted Stone Mansion's motion to dismiss.[53]

On appeal, the Third Circuit held that the "properly joined and served" language of section 1441(b)(2) is unambiguous, that no extraordinary showing of contrary intent had been made, and that a literal interpretation of the statute does not lead to absurd or bizarre results.[54] Although the Court held that the purpose of the forum defendant rule was to prevent "discrimination against out-of-state litigants," it noted that the specific purpose of the "properly joined and served" language is "less obvious" given the absence of legislative history.[55] The Court observed that other courts and commentators generally agree that the apparent purpose of the "properly joined and served" language was to combat plaintiffs' attempts to defeat removal jurisdiction by fraudulently joining forum defendants against whom the plaintiffs had no intent to proceed or to even serve.[56] The Court rejected

49. *Id.*
50. *Id.*
51. *Id.*
52. *Id.*
53. *Id.* at 150–51.
54. *Id.* at 152–54.
55. *Id.* at 153.
56. *Id.* (citing Hellman et al., *supra* note 33, at 108); Sullivan v. Novartis Pharms. Corp., 575 F. Supp. 2d 640, 645 (D.N.J. 2008)). This type of strategic joinder of a forum defendant whom the plaintiff has no intention of pursuing differs from traditional fraudulent joinder, which occurs when the plaintiff sues a diverse defendant and joins what is essentially a frivolous claim against the non-diverse defendant. *See* Percy, *Making a Federal Case of It*, *supra* note 3, at 191; E. Farish Percy, *Defining the Contours of the Emerging Fraudulent Misjoinder Doctrine*, 29 HARV. J.L. & PUB. POL'Y 569, 576–78 (2006) [hereinafter Percy, *Fraudulent Misjoinder*]. Under the traditional fraudulent joinder doctrine, the diverse defendant may remove despite the lack of complete diversity, at which point the federal court dismisses the fraudulently joined non-diverse defendant and retains jurisdiction over the removed case. Percy, *Fraudulent Misjoinder*, at 576–78. Strategic joinder of a forum defendant against whom the plaintiff does not intend to pursue also differs from another variant of fraudulent joinder—fraudulent procedural misjoinder. *Id.* at 602. Procedural misjoinder occurs when the plaintiff has colorable claims against the diverse and non-diverse defendants, but joinder of the claims is totally unsupported by governing state procedural rules. *See* Percy, *Making a Federal Case of It*, *supra* note 3

Encompass's argument that allowing a defendant to engage in gamesmanship by using a loophole in the forum defendant rule that was intended to protect defendants from gamesmanship by plaintiffs turns the statute on its head.[57] The Court concluded that allowing a forum defendant to remove does not contravene congressional intent to limit fraudulent joinder.[58]

The Court acknowledged that its holding "may be peculiar in that it allows Stone Mansion to use pre-service machinations to remove a case that it otherwise could not."[59] The Court also acknowledged that reasonable minds might conclude that the procedural result demands a change in the law but noted that Congress, rather than the judiciary, must act to effectuate such change.[60] The Court dismissed concern that its ruling would encourage defendants to engage in pre-service gamesmanship in order to secure a federal forum.[61] Although the Court acknowledged that "technological advances since [the] enactment of the forum defendant rule now permit litigants to monitor dockets electronically, potentially giving defendants an advantage in a race-to-the-courthouse removal scenario," it noted that the parties did not voice concern over this phenomenon on appeal or demonstrate that such docket monitoring was widespread.[62]

2. Second Circuit

In *Gibbons v. Bristol-Myers Squibb Co.*,[63] the Second Circuit found snap removal by forum defendants proper based upon the same reasoning as that applied by Third Circuit applied in *Encompass*.[64] The appeal involved numerous lawsuits that had been filed in Delaware state court against Bristol-Myers Squibb Co. and Pfizer Inc., both Delaware corporations with their principal place of business in New York.[65] The Plaintiffs alleged that Eliquis, a blood thinning medication manufactured and distributed by BMS and Pfizer, caused Plaintiffs to suffer excessive

(discussing the traditional fraudulent joinder doctrine established by the Supreme Court); Percy, *Fraudulent Misjoinder*, at 602 (exploring the fraudulent procedural misjoinder).

57. *Encompass*, 902 F.3d at 153.
58. *Id.* at 153–54.
59. *Id.*
60. *Id.* at 154.
61. *Id.*
62. *Id.* at 153 n.4.
63. 919 F.3d 699 (2d Cir. 2019).
64. *Id.* at 705–07.
65. *Id.* at 702–03.

bleeding and injury.[66] Defendants removed prior to service of process.[67] The lawsuits were transferred to the Eliquis MDL litigation in the Southern District of New York.[68] The MDL judge denied Plaintiffs' motions to remand and then dismissed the cases.[69]

The Second Circuit held that the statutory language in section 1441(b)(2) is clear and unambiguous and does not prohibit removal "until a home-state defendant has been served in accordance with state law."[70] The Court acknowledged that allowing a forum defendant to remove might seem "anomalous" given that "diversity jurisdiction is intended to protect out-of-state defendants from possible prejudice[] in state court," but concluded that the statutory language "cannot be simply brushed aside."[71] The Court concluded that Congress may have adopted the "properly joined and served" language "to both limit gamesmanship and provide a bright-line rule keyed on service, which is clearly more easily administered than a fact-specific inquiry into a plaintiff's intent or opportunity to actually serve a home-state defendant."[72] The Court acknowledged that defendants in states that require a delay between filing and service will be able to more easily remove cases before service on the forum defendant, but concluded that "state-by-state variation is not uncommon . . . in the removal context."[73]

3. Fifth Circuit

Most recently, the Fifth Circuit endorsed snap removal in *Texas Brine Co. v. American Arbitration Association, Inc.*[74] There, Texas Brine sued American Arbitration Association Inc. ("AAA") and two individual arbitrators, both citizens of Louisiana, in Louisiana state court for damages arising from arbitration proceedings.[75] Texas Brine accused Defendants of intentional and fraudulent conduct during the arbitration proceedings.[76] AAA removed the case to federal court before the

66. *Id.* at 702.
67. *Id.* at 704.
68. *See id.*
69. *Id.*
70. *Id.* at 705.
71. *Id.* at 706.
72. *Id.*
73. *Id.* (citing Murphy Bros. v. Michetti Pipe Stringing, Inc., 526 U.S. 344, 354–55 (1999)).
74. 955 F.3d 482, 486 (5th Cir. 2020).
75. *Id.* at 484–85.
76. *Id.*

individual arbitrators were served.[77] The Court concluded that application of the plain and unambiguous language does not lead to an absurd result.[78] In so concluding, the Court noted that it was "[o]f some importance" that the removing defendant was an out-of-state defendant given that "[d]iversity jurisdiction and removal exist to protect out-of-state defendants from in-state prejudices."[79] The Court's holding was limited to cases involving removal by non-forum defendants.[80] The Court did not explicitly address whether pre-service removal is proper in a case in which all defendants are forum defendants. Nor did it decide whether a forum defendant may engage in snap removal.

B. District Courts

District courts outside of the Second, Third, and Fifth Circuits have taken divergent approaches in interpreting section 1441(b)(2). Although most courts have either taken the "plain language" approach and found pre-service removal permissible or have found pre-service removal improper because it contravenes the purpose of the forum defendant rule and produces absurd results,[81] some courts have engaged in more nuanced interpretations thereby adding to the variability across district courts jurisdictions.[82]

1. The "Plain Meaning" of the Statute Authorizes Pre-Service Removal

Numerous district courts have adopted the "plain meaning" approach and have held that removal is proper if the forum defendant has not been served with process at the time of removal.[83] As one court concluded,

77. *Id.* at 486.

78. *Id.* at 486–87.

79. *Id.* at 487.

80. *Id.* ("The plain-language reading of the forum-defendant rule as applied in this case does not justify a court's attempt to revise the statute.").

81. Little v. Wyndham Worldwide Operations, Inc., 251 F. Supp. 3d 1215, 1220–21 (M.D. Tenn. 2017) (noting that most district courts have taken one of these two general approaches).

82. *See, e.g.*, Perez v. Forest Lab'ys, Inc., 902 F. Supp. 2d 1238, 1246 (E.D. Mo. 2012) (holding that strict adherence to statutory language would contravene legislative intent where plaintiff had no opportunity to serve forum defendant prior to removal).

83. *See, e.g.*, Whipkey v. Eli Lilly & Co., No. 1:20-CV-00450-SEB-MPB, 2020 WL 3248472, at *3–4 (S.D. Ind. June 16, 2020); Graff v. Leslie Hindman Auctioneers, Inc., 299 F. Supp. 3d 928, 937 (N.D. Ill. 2017); Goodwin v. Reynolds, No. 2:12-cv-0033-SLB, 2012 WL 4732215, at *4 (N.D. Ala. Sept. 28, 2012), *aff'd*, 757 F.3d 1216 (11th Cir. 2014); Chace v. Bryant, No. 4:10-CV-85-H, 2010 WL 4496800, at *2 (E.D.N.C. Nov. 1, 2010).

"'served' should be given meaning, and the most natural reading of 'properly joined and served' is that the forum defendant rule applies only to defendants who have been properly joined *and* properly served."[84]

2. A Literal Interpretation Contravenes Congressional Intent and Produces an Absurd Result

Numerous district courts have found snap removal improper because it thwarts congressional intent, contravenes the forum defendant rule, and produces a bizarre and absurd result.[85]

The result of blindly applying the plain "properly joined and served" language of section 1441(b) is to eviscerate the purpose of the forum defendant rule. It creates a procedural anomaly whereby defendants can always avoid the imposition of the forum defendant rule so long as they monitor the state docket and remove the action to federal court before they are served by the plaintiff. In other words, a literal interpretation of the provision creates an opportunity for gamesmanship by defendants, which could not have been the intent of the legislature in drafting the "properly joined and served" language.[86]

3. Pre-Service Removal is Proper if at Least One Defendant Has Been Served

Other district courts have focused on the word "any" in the phrase—"if any of the parties in interest properly joined and served as defendants," and have held that the text assumes that at least one party in interest has been properly joined and served.[87] Thus, these courts do not condone snap removal of cases involving a sole forum defendant and only authorize snap removal if at least one non-forum defendant has been served.[88]

4. Pre-Service Removal is Proper Only if Multiple Defendants Are

84. Magallan v. Zurich Am. Ins. Co., 228 F. Supp. 3d 1257, 1260 (N.D. Okla. 2017); *see generally Whipkey,* 2020 WL 3248472, at *2–3.

85. *See, e.g.*, DHLNH, LLC v. Int'l Brotherhood of Teamsters, Loc. 251, 319 F. Supp. 3d 604, 606 (D.R.I. 2018); Campbell v. Hampton Rds. Bankshares, Inc., 925 F. Supp. 2d 800, 807–10 (E.D. Va. 2013).

86. Fields v. Organon USA, Inc., No. 07-2922 (SRC), 2007 WL 4365312, at *5 (D.N.J. Dec. 12, 2007); *see also Little*, 251 F. Supp. 3d at 1222.

87. *See, e.g.*, Bowman v. PHH Mortg. Corp., 423 F. Supp. 3d 1286, 1289–90 (N.D. Ala. 2019).

88. *See, e.g.*, *id.*; Gentile v. Biogen Idec, Inc., 934 F. Supp. 2d 313, 322–23 (D. Mass. 2013).

Named

Some district courts have interpreted the statute to allow pre-service removal only if multiple defendants are joined. These courts focus on the word "joined" and conclude that the statute contemplates joinder of multiple defendants and that therefore "the local defendant rule's 'exception' for removal prior to service can only be considered when [a] plaintiff sues multiple defendants."[89]

5. Pre-Service Removal is Proper if Plaintiff Had an Opportunity to Serve the Forum Defendant

A few courts have held that pre-service removal is proper only if the plaintiff had a reasonable opportunity to serve the forum defendant. In *Vallejo v. Amgen, Inc.*,[90] Plaintiff sued Amgen, Inc., Pfizer, and Wyeth in California state court for the wrongful death of her husband, alleging that his ingestion of Enbrel caused his death.[91] Amgen, whose principal place of business is in California, removed the case to federal court before service on Defendants.[92] Noting that the Plaintiff could not have served Amgen before removal because the state court withheld the summons, the District Court held that removal was improper and contrary to congressional intent.[93] "If defendants were permitted to remove a case before the plaintiff even had the opportunity to serve them, this would effectively circumvent Congress's entire statutory scheme and render [section] 1441(b)(2) superfluous."[94]

The same court, however, held that a later case was properly removed where the plaintiff had sufficient opportunity to serve the forum defendant.[95] The court acknowledged that "there are differing factual scenarios that may impair or restrict proper service," and that in such cases the court may make a fact intensive inquiry to determine whether

89. Tourigny v. Symantec Corp., 110 F. Supp. 3d 961, 964 (N.D. Cal. 2015); *see also* Allen v. GlaxoSmithKline PLC, No. 07-5045, 2008 WL 2247067, at *5 (E.D. Pa. May 30, 2008).

90. Vallejo v. Amgen, No. CV-13-03666 BRO (MANx), 2013 WL 12147584 (C.D. Cal. Aug. 30, 2013).

91. *Id.* at *1.

92. *Id.*

93. *Id.* at *3.

94. *Id.*

95. Dechow v. Gilead Scis., Inc., 358 F. Supp. 3d 1051, 1055–56 (C.D. Cal. 2019).

"applying the plain meaning interpretation of [section] 1441(b)(2) could produce 'absurd or bizarre results.'"[96]

6. Pre-Service Removal is Proper Absent Egregious Gamesmanship by Defendant

Some district courts have suggested that docket-hawking is an egregious form of gamesmanship that should bar removal even if pre-service removal is otherwise permitted.[97] Similarly, district courts within the Third Circuit have suggested there may be instances of egregious gamesmanship or intentional evasion of service of process that render removal improper.[98]

7. Differences Within the Same District Court

Not only are there differences in interpretation across district court jurisdictions, there are also differences within several judicial districts. In those districts, the viability of pre-service removal depends on the judge to whom the case is randomly assigned.[99] The inconsistent manner

96. *Id.* at 1055*; see also* Woods v. Dr. Pepper Snapple Grp., Inc., No. CIV-19-1162-F, 2020 WL 917284, at *3 (W.D. Okla. Feb. 26, 2020) (recognizing a judicially crafted exception to the "joined and served" language when the plaintiff did not have a reasonable opportunity to serve defendant); Perez v. Forest Lab'ys, Inc., 902 F. Supp. 2d 1238, 1246 (E.D. Mo. 2012) (holding that strict adherence to statutory language would contravene legislative intent where plaintiff had no opportunity to serve forum defendant prior to removal).

97. *See, e.g.*, Rogers v. Boeing Aerospace Operations, Inc., 13 F. Supp. 3d 972, 977 (E.D. Mo. 2014) (reasoning that because such egregious behavior did not occur given the facts of the case, pre-service removal was permissible).

98. *See, e.g.*, Dutton v. Ethicon, Inc., 423 F. Supp. 3d 81, 90 n.4 (D.N.J. 2019) (suggesting that some service delaying tactics may be so egregious as to render removal improper); Jackson v. Howmedica Osteonics Corp., No. 19-18667 (JMV), 2020 WL 6049400, at *6 n.4 (D.N.J. June 15, 2020), *report and recommendation adopted*, No. 19-18667 (JMV) (JBC), 2020 WL 4188165, at *1 (D.N.J. July 20, 2020) (adopting the Magistrate's Report & Recommendation suggesting that egregious evasion of service of process may render removal improper).

99. Judges within the District of Maryland have interpreted the statute differently. *See, e.g.*, Al-Ameri v. John Hopkins Hosp., No. GLR-15-1163, 2015 WL 13738588, at *2 (D. Md. June 24, 2015) (adopting the "plain language" approach). *But see* Reimold v. Gokaslan, 110 F. Supp. 3d 641, 643 (D. Md. 2015) (rejecting a "plain meaning" interpretation because it would lead to an absurd result).

Similarly, judges within the Eastern District of Missouri have differed in their interpretation. *See, e.g.*, *Perez*, 902 F. Supp. 2d at 1246 (holding that strict adherence to statutory language would contravene legislative intent where plaintiff had no opportunity to serve the forum defendant prior to removal). *But see* Johnson v. Emerson Elec. Co., No. 4:13-CV-1240 -JAR, 2013 WL 5442752, at *4 (E.D. Mo. Sept. 30, 2013) (holding that

in which courts treat pre-service removal might not be a huge cause for concern if pre-service removal rarely occurs. As demonstrated below, however, pre-service removal is becoming ever more prevalent and is approaching ubiquity in some jurisdictions where frequently sued corporate defendants are actively engaged in monitoring state court electronic dockets.

II. DATA REGARDING THE PREVALENCE OF PRE-SERVICE REMOVAL

Only one earlier study has been conducted regarding the frequency of attempted snap removals.[100] It identified 221 cases nationwide where defendants had attempted pre-service removal during the three-year period from 2012 through 2014.[101] The study concluded, however, that only 19 of those cases were successfully removed based upon the court's literal interpretation of the "properly joined and served" language in section 1441(b)(2).[102]

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removal was proper pursuant to the plain language of the statute because the forum defendant had not been served).

Judges in the Western District of Kentucky have reached contrary results. *Compare* United Steel Supply, L.L.C. v. Buller, No. 3:13-CV-00362-H, 2013 WL 3790913, at *4 (W.D. Ky. July 19, 2013) (permitting an in-state defendant to take advantage of snap removal), *with* Schilmiller v. Medtronic, Inc., 44 F. Supp. 3d 721, 727 (W.D. Ky. 2014) (remanding the case because snap removal is "an attempt to go around the forum defendant rule").

Although the Sixth Circuit appeared to have adopted the plain meaning approach in *McCall v. Scott*, 239 F.3d 808, 813 n.2 (6th Cir. 2000), *amended on denial of reh'g*, 250 F.3d 997 (6th Cir. 2001), by stating in a footnote that "[w]here there is complete diversity of citizenship, the inclusion of an *unserved* resident defendant in the action does not defeat removal," some district courts within the Sixth Circuit have characterized the footnote as dictum and have found snap removal improper because it contravenes the purpose of the forum defendant rule. *Id.* (emphasis added). *See, e.g.*, Dooley v. Medtronic, Inc., 39 F. Supp. 3d 973, 980 (W.D. Tenn. 2014). Other judges within the same district, however, have found removal proper. *See, e.g.*, Linder v. Medtronic, Inc., No. 13-2346-STA-cgc, 2013 WL 5486770, at *2 (W.D. Tenn. Sept. 30, 2013).

100. *See* Nannery, *supra* note 7.

101. *Id.* at 560–61. Nannery explained that her data set was likely incomplete given the difficulty of identifying every case in which pre-service removal was attempted. *Id.* at 561.

102. The plaintiffs filed motions to remand in 219 of those cases. *See id.* at 569 n.130. The district court ruled on those motions in 200 of the cases. *Id.* at 569 tbl.7. Of those 200 cases, 90 were remanded based upon the district court's holding that the forum defendant rule barred pre-service removal. *Id.* at 570–71. In 73 cases, the district court found removal improper based upon its interpretation of the forum defendant rule but found removal proper on other grounds, such as federal question jurisdiction, federal officer jurisdiction or the plaintiff's failure to timely move for remand. *Id.* at 571. Twelve cases were remanded after the defendants failed to oppose the motion to remand. *Id.* A handful of cases were

During the November 2019 congressional hearing on snap removal, one witness pointed to the study to support his contention that legislative reform is not necessary because snap removals occur infrequently.[103] Kaspar Stoffelmayr, a defense lawyer with Bartlit Beck who is engaged in mass tort and products liability litigation and who previously served as Vice President and Associate General Counsel for Bayer, testified that the study demonstrated that snap removal is "relatively rare" and that such cases constitute a tiny percentage of the federal court docket.[104] Stoffelmayr later characterized the proposed Removal Jurisdiction Clarification Act of 2020 (H.R. 5801) as a bill in "search of a problem" because "pre-service removal remains uncommon."[105]

At the same hearing, however, Ellen Relkin, a plaintiff's lawyer with Weitz & Luxenberg who specializes in litigation involving defective medical devices and inadequately labeled pharmaceutical products and who regularly practices in district courts within the Second and Third Circuits, testified that the study of 2012–2014 cases is obsolete.[106] Relkin further testified that snap removal is rampant today and attributed the increasing frequency of pre-service removal to the recent appellate court opinions approving the tactic and to mandatory electronic filing requirements newly imposed in a large majority of states.[107]

Given the dearth of current data concerning pre-service removal, this article examines snap removals that have occurred in the Third Circuit

remanded sua sponte. *Id.* at 570–71. The district court denied plaintiff's motions to remand based upon a literal interpretation of the statute in only nineteen cases. *Id.*

103. *See Hearing*, *supra* note 9, at 1, 8 (statement of Kaspar J. Stoffelmayr, Partner, Barlit Beck, LLP).

104. *Id.*

105. Alison Frankel, *House Dems Introduce Bill to Combat Defense Tactic of 'Snap Removals,'* REUTERS (Feb. 13, 2020, 2:06 PM), https://www.reuters.com/article/us-otc-snapremoval-idUSKBN2062ZW; Removal Jurisdiction Clarification Act of 2020, H.R. 5801, 116th Cong. § 1447 (2020).

106. *See Hearing*, *supra* note 9, at 4 (statement of Ellen Relkin, Defective Drugs and Devices Practices Group Co-Chair, Weitz & Luxemberg, P.C.).

107. *Id.* at 6. Relkin also noted that the increasing frequency of snap removals to federal courts in New Jersey was only adding to the acute judicial emergency in that district caused by several judgeships that remain unfilled. *Id.* at 15 ("The problem is especially acute in the District of New Jersey, which was deemed by the Administrative Office of U.S. Courts to be in a state of judicial emergency[.]"). For example, court filings increased more than 150 percent in a single year. Joe Atmonavage, *One Federal Court Judge in New Jersey Says She is Handling Thousands of Cases as "Judicial Crisis" Worsens*, NJ.COM (June 26, 2019), https://www.nj.com/news/2019/06/one-federal-court-judge-in-nj-says-she-is-handling-thousands-of-cases-as-judicial-crisis-worsens.html.

since it decided *Encompass* in August 2018.[108] The author limited the search to removals between August 22, 2018 and June 30, 2020. Although the search likely failed to identify all attempted pre-service removals that occurred,[109] it unquestionably demonstrates that the number of attempted and successful snap removals has greatly increased since the earlier study. In addition, the current study revealed other issues that are cause for concern.

A. Number of Attempted and Successful Snap Removals

The search identified 355 cases in which pre-service removal was attempted. Snap removal was successful in 252 of those 355 cases based on a literal interpretation of the "properly joined and served" language in section 1441(b)(2). While some may view this as a relatively small number given the size of the federal court docket, the search was limited to the federal district court jurisdictions in Delaware, New Jersey, and Pennsylvania and covered less than a two-year period.[110] The previous study identified 19 attempted pre-service removals to the Eastern District of Pennsylvania and 15 attempted pre-service removals to the District of New Jersey,[111] compared to 44 attempted pre-service removals to the Eastern District of Pennsylvania and 303 attempted pre-service removals to the District of New Jersey identified by this study.[112] As parties and lawyers become more familiar with this stratagem, the number of snap removals will almost certainly increase.

108. The author conducted a docket search using Bloomberg Law in order to identify as many snap removals as possible. In jurisdictions where snap removal has been approved, a court opinion addressing the propriety of snap removal may not exist because the plaintiff may forego moving to remand. The author searched for docket entries citing *Encompass* and docket entries that included any of the following terms—"snap removal," "properly joined and served," "forum defendant," "in-state defendant," "resident defendant," "local defendant," or "1441(b)(2)." The author also searched for docket entries that included "Notice of Removal" and the names of defendants that appeared to frequently engage in snap removal—Ethicon, Johnson & Johnson, Howmedica, Sanofi, Merck, Bayer, Novartis, Allergan and Hospira. The search likely failed to identify all pre-service removals that occurred because the Notice of Removal in some such cases may not have included any of the search terms.

109. For example, the author's Bloomberg search did not identify *Trias v. QVC, Inc.*, which was removed by a forum defendant on February 12, 2020. Trias v. QVC, Inc., No. 2:20-813, 2020 WL 1625601 (E.D. Pa. Apr. 2, 2020).

110. The Third Circuit also includes the District Court of Virgin Islands, but the search did not identify any attempted pre-service removals in that district.

111. *See* Nannery, *supra* note 7, at 567 tbl.6.

112. *See infra* Table 8.

Table 1. Outcome of Cases in Which Pre-Service Removal was Attempted	
252	Number of cases in which pre-service removal was successful based solely upon a literal interpretation of §1441(b)(2)[113]
80	Number of cases remanded because a forum defendant had been served prior to removal (by court order or by consent)[114]
2	Number of cases in which pre-service removal was successful based on §1441(b)(2) and an additional basis for removal jurisdiction[115]
2	Number of cases improperly removed based on a misinterpretation of *Encompass* and still pending in federal court[116]
3	Number of cases remanded by consent or court order for lack of diversity (removing defendant misinterpreted *Encompass*)[117]
16	Number of cases in which motion to remand is pending[118]
355	Total number of cases in which pre-service removal was attempted

113. This includes 150 cases in which the motion to remand was denied, 1 case in which the motion to remand was administratively terminated, 1 case in which the parties stipulated to dismissal with prejudice while the remand motion was pending, and 100 cases in which no motion to remand was filed. *See infra* Tables 3 & 4.

114. This includes thirty-five cases in which no motion to remand was filed and defendants consented to remand, 15 cases in which a motion to remand was filed but defendants consented to remand, and 30 cases in which the court granted the motion to remand. *See infra* Tables 3 & 4.

115. In two cases that were successfully removed, the defendants relied on the "properly joined and served" language in section 1441(b)(2) and an additional basis for removal. Case number 16, in which the removing defendant in a shareholder derivative suit also argued that the defendant corporation was a nominal defendant and should not be considered a defendant for purposes of the forum defendant rule, and Case number 319, in which the removing defendant invoked federal question jurisdiction and alleged that although plaintiff pleaded conversion claims based on state law, plaintiff artfully pleaded a federal claim.

116. For an explanation of the misinterpretation, see *infra* notes 178–79 and accompanying text. No motion to remand was filed in one case and it is still pending in federal court. Appendix of Cases, No. 327. The court improperly denied plaintiff's motion to remand in the other case. Appendix of Cases, No. 355. *See infra* note 184 and accompanying text.

117. Three cases lacking complete diversity were remanded. In two, no motion to remand was filed but the defendants consented to remand. Appendix of Cases, Nos. 275 & 304. In one, the court granted the motion to remand. Appendix of Cases, No. 283.

118. Appendix of Cases, Nos. 328–330, 332–43, & 348.

B. Basis for and Outcome of Motions to Remand

Table 2. Number of Cases in Which Motion to Remand was Filed	
215	Number of cases in which plaintiffs moved to remand[119]
140	Number of cases in which plaintiffs did not move to remand[120]
355	Total number of cases in which pre-service removal was attempted

Plaintiffs moved to remand in 215 of the 355 cases in which pre-service removal was attempted. This high rate of removal/remand litigation is likely to continue, thereby requiring that federal courts toexpend limited resources determining forum.

119. Appendix of Cases, Nos. 1–10, 15, 20–126, 135, 138–39, 143–73, 175, 177–78, 180–81, 184–87, 193, 217, 234, 237, 243, 250–56, 264, 266, 273, 279–80, 283, 290–91, 294, 300, 303, 309, 313–17, 320–23, 325, 328–43, 347–48 & 355.

120. Appendix of Cases, Nos. 11–14, 16–19, 127–34, 136–37, 140–42, 174, 176, 179, 182–83, 188–192, 194–216, 218–33, 235–36, 238–42, 244–49, 257–63, 265, 267–72, 274–78, 281–82, 284–89, 292–93, 295–99, 301–02, 304–08, 310–12, 318–19, 324, 326–27, 344–46 & 349–54.

Table 3. Outcome in Cases in Which Motion to Remand was Filed	
150	Motion denied based on literal interpretation of §1441(b)(2)[121]
1	Motion to remand administratively terminated[122]
1	Dismissed with prejudice by stipulation while remand motion pending[123]
30	Motion granted because forum defendant was served prior to removal[124]
15	Defendants consented to remand because forum defendant was served prior to removal[125]
1	Defendants consented to remand based on lack of diversity[126]
1	Motion denied based on misunderstanding of *Encompass*[127]
16	Cases in which motion to remand is still pending[128]
215	Total cases in which plaintiffs moved to remand[129]

Plaintiffs moved to remand on a variety of grounds. In numerous cases, plaintiffs moved to remand, asserting that a forum defendant had been served prior to removal. In some such cases, defendants who were engaged in constant monitoring of state court electronic dockets immediately filed the notice of removal in federal court without first verifying that no forum defendant had been served.[130] In other cases, the removing defendants filed the notice of removal in federal court prior to service on a forum defendant, but did not file the notice of removal with the state court prior to service on the forum defendant.[131] Section 1446(d) provides that after filing the notice of removal in federal court, "the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such state court, which shall effect the removal and the state court shall proceed no

121. Appendix of Cases, Nos. 1–10, 20–126, 149–73, 177, 180, 184–87, 217 & 243.
122. Appendix of Cases, No. 193.
123. Appendix of Cases, No. 331.
124. Appendix of Cases, Nos. 15, 135, 138, 139, 143–48, 175, 178, 181, 234, 250–56, 273, 279, 280, 290, 291, 294, 300, 303 & 347.
125. Appendix of Cases, Nos. 237, 264, 266, 309, 313–17, 320–23, 325 & 326.
126. Appendix of Cases, No. 283.
127. Appendix of Cases, No. 355.
128. Appendix of Cases, Nos. 328–32, 334–43, & 348.
129. *See supra* note 119.
130. Appendix of Cases, Nos. 2–9, 237, 299, 306–08, 324, 328.
131. Appendix of Cases, Nos. 135, 138, 139, 143–48, 175, 178, 234 & 273.

further unless and until the case is remanded."[132] Thus, courts granted plaintiffs' motions to remand where the forum defendant was served after the removing defendant filed the notice of removal in federal court but before the defendant filed the notice of removal in state court.[133]

In one case, a corporation who was not even named by the plaintiff removed before ensuring that it was in fact a named defendant.[134] Plaintiff had filed a short form complaint in a New Jersey MCL litigation involving claims arising from plaintiff's use of Taxotere, a breast cancer drug.[135] The short form complaint allowed the plaintiff to check boxes for each defendant sued. Hospira, Inc. removed the case even though it was not named a defendant.[136] Plaintiff's motion to remand is still pending.[137]

In fourteen cases filed against Howmedica Corporation in the Superior Court of New Jersey, Howmedica, a New Jersey corporation with its principal place of business in New Jersey and the sole defendant, removed citing *Encompass* and asserted that it had not been served prior to removal.[138] Plaintiffs, who alleged they had been injured as the result of defendant's Trident Tritanium Acetabular System, which is a component part of an artificial hip replacement system, moved to remand, arguing that Howmedica's registered agent for service of process had been served prior to removal.[139] Howmedica responded by arguing that service upon its registered agent for service of process did not

132. 28 U.S.C. § 1446(d) (2018).

133. *See, e.g.*, Dutton v. Ethicon, Inc., 423 F. Supp. 3d 81, 87–88 (D.N.J. 2019) (noting that the removing defendant must complete all three steps of removal before a forum defendant is served in order to effectuate a pre-service removal) (remanding Case Nos. 135, 138, 139, 143–48, 175 & 178); Brown v. Teva Pharms., Inc., 414 F. Supp. 3d 738, 741 (E.D. Pa. 2019) (noting that removal is not accomplished until the defendant files the notice with the state court) (remanding Case No. 273); Doe v. Valley Forge Mil. Acad. and Coll., No. 2:19-1693, 2019 WL 3201178, at *4–6 (E.D. Pa. July 15, 2019) (sending the Notice of Removal to the state court via fax does not constitute "filing" the Notice of Removal in state court) (remanding Case 234). *See also* Trias v. QVC, Inc., No. 2:20-813, 2020 WL 1625601, at *2–3 (E.D. Pa. Apr. 2, 2020) (noting that defendant gave written notice of removal to the plaintiff prior to service because, pursuant to Fed. R. Civ. P. 5(b)(2), the date defendant mailed the notice controlled rather than the date plaintiff received the notice).

134. Bramblett v. Hospira, Inc., No. 3:20-CV-06550 (D.N.J. May 29, 2020).

135. Third Amended Master Short Form Complaint & Jury Demand, Bramblett v. Hospira, Inc., No. 3:20-CV-06550 (D.N.J. May 29, 2020).

136. Bramblett v. Hospira, Inc., No. 3:20-CV-06550, at *1 (D.N.J. May 29, 2020).

137. *Id.*

138. Appendix of Cases, Nos. 250–56, 279, 280, 290, 291, 294, 300 & 303. As discussed in *supra* notes 171–82 and accompanying text, plaintiffs alleged that Howmedica purposefully evaded service in 7 of these 14 cases.

139. Appendix of Cases, Nos. 250–56, 279, 280, 290, 291, 294, 300 & 303.

constitute service for purposes of section 1441(b)(2).[140] As support for this argument, Howmedica cited *Tucci v. Hartford Financial Services Group, Inc.*,[141] in which the district court held that service on a *statutory* agent for service of process does not trigger the thirty-day period in which to remove established by section 1446(b).[142] The *Tucci* court distinguished between statutory agents and agents appointed by a defendant, observing that statutory agents, unlike agents in fact, have limited purpose and power.[143] The court concluded that "where service is made on a statutory agent, rather than an agent appointed by the defendant, the time to remove the action to federal court does not start to run until the defendant actually has received a copy of the initial pleading."[144]

In these fourteen Howmedica cases, the district court granted plaintiffs' motions to remand, holding that Howmedica's argument suffered from two fatal flaws.[145] First, Howmedica failed to recognize that *Tucci* was limited to statutory agents and treated registered agents as agents in fact for purposes of triggering the thirty-day period in which to remove.[146] Second, Howmedica failed to appreciate that *Tucci* addressed the issue of when service occurs for purposes of determining when the thirty-day period in which to remove is triggered pursuant to section 1446(b) rather than what constitutes service for purposes of section 1441(b)(2).[147] That Howmedica opposed plaintiffs' motions to remand based upon such a weak legal argument demonstrates the extent to which defendants may go in an effort to secure a federal forum.

Of the 215 cases in which plaintiffs moved to remand, the court granted plaintiffs' motion in thirty cases because the plaintiffs had served a forum defendant prior to removal.[148] In fifteen additional cases in which the plaintiffs moved to remand, defendants consented to remand after realizing that a forum defendant had been served prior to

140. *Id.*
141. 600 F. Supp. 2d 630, 636 (D.N.J. 2009).
142. *Id.* at 633–34.
143. *Id.* at 633.
144. *Id.* at 636.
145. *See* Mag.'s Rep. & Recommendation at *7, Jackson v. Howmedica Osteonics Corp., No. 2:19-CV-18667 (JMV) (JBC) (D.N.J. June 15, 2020); Appendix of Cases, Nos. 250–56, 279, 280, 290, 291, 294, 300 & 303.
146. Mag.'s Rep. & Recommendation, *supra* note 143, at *7–8, Jackson v. Howmedica Osteonics Corp., No. 2:19-CV-18667-JMV-JBC (D.N.J. June 15, 2020).
147. *Id.* at 8–10. By order entered July 20, 2020, the district court adopted the Magistrate's Report and Recommendation and remanded the fourteen cases to state court. Jackson v. Howmedica Osteonics Corp., No. 19-18667 (JMV) (JBC), 2020 WL 4188165, at *1–2 (D.N.J. July 20, 2020).
148. *See supra* Table 3.

removal.[149] As long as pre-service removal is permissible, this shuttling back and forth between state and federal court is inevitable.[150]

The court denied the motions to remand in the large majority of cases.[151] In some cases, plaintiffs made the futile argument that pre-service removal is barred by the forum defendant rule despite the Third Circuit's holding to the contrary.[152] In other cases, plaintiffs argued that removal by a forum defendant prior to service is premature and improper because the thirty-day period in which to remove is triggered by formal service of process.[153] For instance, in more than one hundred separate cases filed against Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, plaintiffs alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX.[154] Merck removed the cases, citing *Encompass* and asserting that the Merck defendants (the forum defendants) had not been served.[155] Plaintiffs filed an omnibus motion to remand and memorandum brief in which they cited the Supreme Court's opinion in *Murphy Bothers, Inc. v. Michetti Pipe Stringing, Inc.*,[156] holding that formal service of process, not receipt of the complaint via fax, triggers the time period in which to remove.[157] Thus, plaintiffs argued that removal prior to service of process is premature and improper.[158] In denying the plaintiffs' motions to remand, the district court simply stated that the

149. *See supra* Table 3. After realizing that a forum defendant had been served prior to service, defendants consented to remand in thirty-five additional cases in which the plaintiffs did not move to remand. *See infra* Table 4.

150. *See infra* notes 286–89 and accompanying text.

151. *See infra* Table 3.

152. Appendix of Cases, Nos. 177 & 184–87.

153. *Cf.* Appendix of Cases, Nos. 239 & 271.

154. Appendix of Cases, Nos. 20–126.

155. *Id.*

156. Murphy Bros. v. Michetti Pipe Stringing, Inc., 526 U.S. 344 (1999).

157. *Id.* at 347–48; *see also* Memorandum in Support of Plaintiff's Emergency Omnibus Motion to Remand and Request for Expedited Briefing and Ruling to Reduce Defendants' Time to File a Response and Expedited Ruling at 10, Anderson v. Merck & Co., Inc. et al., No. 3:18-CV-15844(PGS) (D.N.J. Dec. 5, 2018) [hereinafter Plaintiff's Memorandum in Support of Remand].

158. *See* Plaintiff's Memorandum in Support of Remand, *supra* note 155, at 10, Anderson v. Merck & Co., Inc. et al., No. 3:18-CV-15844(PGS) (D.N.J. Dec. 5, 2018).

Third Circuit clearly held in *Encompass* that forum defendants may remove prior to service.[159]

Plaintiffs also often argued that remand was necessary because some procedural hurdle prevented them from serving the forum defendant. Plaintiffs in the ZOSTAVAX cases against Merck & Co. discussed above asserted that the Superior Court of New Jersey had not issued them a Tracking Assignment Number (TAN) and that New Jersey procedural rules require a plaintiff to obtain a TAN before serving a defendant.[160] The District Court rejected this argument, noting that the Third Circuit recognized that defendants seeking to remove cases might enjoy some procedural advantages.[161]

Plaintiffs made similar arguments in support of their motions to remand in seventeen separate lawsuits filed against numerous defendants (including various Sanofi and Hospira defendants) in the state multi-county litigation (MCL) proceeding that had had already been established in the Superior Court of New Jersey, Middlesex County, for injuries caused by the breast cancer drug Taxotere.[162] In fourteen of the cases, plaintiffs asserted that the complaints were mailed to the court for filing in the state MCL litigation and then lost in midst of the chaos created by the state court's COVID-19 safety orders.[163] Although the MCL manager informed plaintiffs' counsel that court staff were searching for the missing complaints, plaintiffs contend that the court staff located the lost complaints, filed them, and assigned them a docket number before informing plaintiffs' counsel.[164] Plaintiffs' counsel did not learn of the filing until they received Hospira, Inc.'s Notice of Removal.[165] In three other cases, plaintiffs argued that the forum defendants (the Sanofi defendants) closed their corporate headquarters due to the COVID-19 pandemic, thereby delaying plaintiffs' service.[166] Although

159. Anderson v. Merck & Co., Inc., No. 3:18-CV-15844(PGS), 2019 WL 161512, at *2 (D.N.J. Jan. 10, 2019). For an additional argument that the *Murphy Brothers* opinion warrants consideration of whether an unserved defendant even has standing to remove, see Stempel et al., *supra* note 8, at 44–51.

160. *Anderson*, at *2.

161. *Id.*

162. Appendix of Cases, Nos. 328–43 & 348.

163. Appendix of Cases, Nos. 328–39; Memorandum in Support of Omnibus Motion to Remand Pursuant to 28 U.S.C. § 1447(c), at *6, Jordan v. Sanofi U.S. Servs., Inc., No. 3:20-CV-06503 (D.N.J. June 25, 2020).

164. Memorandum in Support of Omnibus Motion to Remand Pursuant to 28 U.S.C. § 1447(c*), supra* note 161, at *6.

165. *Id.* at *3.

166. *Id.* at *6.

these motions are still pending, they are likely to be denied based on *Encompass*.[167]

In a handful of other cases, the plaintiffs moved to remand, arguing that the forum defendant evaded service of process.[168] In *Snader v. Ethicon, Inc.*,[169] plaintiff filed the complaint in state court in New Jersey on December 21, 2018, and defendants, both citizens of New Jersey, removed on December 24, 2018, prior to service.[170] Plaintiff moved to remand, arguing that defendants closed their offices for the purposes of preventing service.[171] The court denied plaintiff's motion to remand, casting doubt on plaintiff's assertion that defendants were purposefully evading service in light of defendants' explanation that the offices were closed for the holidays, but holding that even if defendants had purposefully evaded service, removal was proper because "*Encompass* and courts interpreting it, have permitted gamesmanship, 'pre-service-machinations,' or otherwise 'unsavory behavior' in order to prevent service."[172]

In seven cases filed against Howmedica in New Jersey, plaintiffs moved to remand arguing that Howmedica purposefully evaded service of process at its corporate headquarters and also asserting that service upon Howmedica's registered agent for service of process prior to removal rendered removal improper.[173] Howmedica responded by arguing that evasion of service of process is permissible pursuant to *Encompass* and also arguing that service upon its registered agent for service of process did not constitute service for purposes of section 1441(b)(2).[174] As discussed above,[175] the court granted plaintiffs' motion to remand given that Howmedica's registered agent for service of process was served prior to removal.[176] Thus, the court did not determine the impact of defendant's

167. Encompass Ins. Co. v. Stone Mansion Rest., Inc., 902 F.3d 147 (3d Cir. 2018).

168. Appendix of Cases, Nos. 1, 187, 279, 280, 290, 291, 294, 300 & 303.

169. No. 3:18-CV-17553-FLW-DEA (D.N.J. Dec. 24, 2018) (Case No. 87).

170. *Id.*

171. *Id.*

172. Dutton v. Ethicon, Inc., 423 F. Supp. 3d 81, 82, 89 (D.N.J. 2019) (ruling on numerous motions to remand, including the one filed in *Snader v. Ethicon*).

173. Appendix of Cases, Nos. 250–56, 279, 280, 290, 291, 294, 300 & 303. These 7 cases are a subset of the 14 cases discussed in *supra* notes 138–45 and accompanying text, in which Howmedica asserted that service on its registered agent for service of process did not constitute service for purposes of section 1441(b)(2).

174. *See supra* note 136 and accompanying text.

175. *See supra* notes 136–45 and accompanying text.

176. Jackson v. Howmedica Osteonics Corp., No. 19-18667 (JMV), 2020 WL 4188165, at *1 (D.N.J. July 20, 2020); *see also* Mag.'s Rep. & Recommendation, *supra* note 143, at *1.

alleged evasion of service of process.[177] The court did, however, suggest that there may be some cases in which a defendant's tactics to avoid or delay service are so egregious so as to render removal improper.[178] "[A]lthough 'pre-service machinations' designed to delay service are seemingly permitted under *Encompass*, the Court cautions that Plaintiff's allegations regarding Defendant's conduct, if true, demonstrate behavior unbecoming of litigants in this Court."[179]

The removing defendants in a handful of cases and at least one judge misinterpreted *Encompass* as holding that a non-diverse forum defendant does not defeat complete diversity if the non-diverse defendant has not been served at the time of removal.[180] On the contrary, the presence of a named non-diverse defendant defeats complete diversity even if that defendant has not been served.[181] In two such cases, the plaintiff moved to remand based upon incomplete diversity.[182] In one of the two cases, the defendant consented to remand after realizing its mistake.[183] In the other case, the judge improperly interpreted *Encompass* as holding that a forum defendant's citizenship is not considered when determining diversity if the forum defendant has not been served.[184]

In total, the court found pre-service removal proper and denied the motion to remand based upon a literal interpretation of the "properly joined and served" language in section 1441(b)(2) in 150 of the 214 cases in which plaintiffs moved to remand.

177. *See Jackson*, 2020 WL 4188165, at *1; Mag.'s Rep. & Recommendation, *supra* note 143, at *1.

178. Mag.'s Rep. & Recommendation, *supra* note 143, at *11 n.4.

179. *Id*. By order entered July 20, 2020, the district court adopted the Magistrate's Report and Recommendation and remanded the fourteen cases to state court. *See Jackson*, 2020 WL 4188165, at *1.

180. Appendix of Cases, Nos. 275, 283, 304, 327 & 355.

181. *See* N.Y. Life Ins. Co. v. Deshotel, 142 F.3d 873, 883 (5th Cir. 1998) ("Whenever federal jurisdiction in a removal case depends upon complete diversity, the existence of diversity is determined from the fact of citizenship of the parties named and not from the fact of service.").

182. *See* Appendix of Cases, Nos. 283 & 355.

183. *See* Appendix of Cases, No. 283. This mistake has been made by defendants in other cases outside the Third Circuit. *See, e.g.*, Roberts v. Clifford, No. 20-80771-CIV-ALTMAN/Brannon, 2020 WL 4350727, at *1–2 (S.D. Fla. July 29, 2020) (rejecting defendant's argument that a non-diverse defendant who had not been served could be ignored when determining diversity); Cox v. J.B. Hunt Transp., Inc., No. H-20-1454, 2020 WL 3288090, at *2 (S.D. Tex. June 18, 2020) (same).

184. Dillard v. TD Bank, NA, No. 1:20-cv-07886-NLH-JS, 2020 WL 4339347, at *1 (D.N.J. July 28, 2020) (Case No. 355).

C. Outcome of Cases in Which No Motion to Remand Was Filed

Table 4. Outcome in Cases in Which No Motion to Remand was Filed	
35	Cases in which the removing defendants consented to remand because a forum defendant had been served prior to service[185]
2	Cases in which the removing defendant consented to remand based on lack of diversity[186]
2	Cases in which the defendant alleged an additional basis for removal[187]
1	Case improperly removed - incomplete diversity[188]
100	Cases in which the defendant successfully engaged in pre-service removal based on § 1441(b)(2)[189]
140	Total cases in which plaintiffs did not move to remand[190]

In the 140 cases in which the plaintiffs did not move to remand, the defendants successfully effectuated pre-service removal in 100 such cases.[191] In thirty-five of the cases, the defendant(s) consented to remand because a forum defendant was served prior to removal.[192] As discussed above, defendants in some such cases did not verify that the forum defendant had not been served prior to filing the notice of removal in federal court.[193] In other cases, the defendant may have filed the notice of removal in federal court prior to service on the forum defendant, but filed the notice of removal in the state court after service on the forum defendant.[194] In three cases, the removing defendant(s) apparently misconstrued *Encompass* as holding that an un-served, non-diverse

185. Appendix of Cases, Nos. 132–34, 136, 137, 140–42, 179, 182–83, 223–28, 239, 241, 249, 258, 261, 267–69, 271, 272, 281, 292, 293, 297, 306–08 & 324.
186. Appendix of Cases, Nos. 275 & 304.
187. Appendix of Cases, Nos. 16 & 319.
188. Appendix of Cases, No. 327.
189. Appendix of Cases, Nos. 11–14, 17–19, 127–31, 174, 176, 188–92, 194–216, 218–22, 229–33, 235–36, 238, 240, 242, 244–48, 257, 259, 260, 262–63, 265, 270, 274, 276–78, 282, 284–89, 295–96, 298–99, 301, 302, 305, 310–12, 318, 344–46 & 349–54.
190. *See supra* note 120.
191. Appendix of Cases, Nos. 11–14, 16–19,127–131,174, 176, 188–92, 194–216, 218–222, 229–33, 235–36, 238, 240, 244–48, 257, 259, 260, 263, 265, 270, 276–78, 282, 284–89, 295–96, 298–99, 301–02, 305, 310–12, 318–19, 327, 344–46 & 349–54.
192. Appendix of Cases, Nos. 132–34, 136, 137, 140–42, 179, 182–83, 223–28, 239, 241, 249, 258, 261, 267–69, 271–72, 281, 292–93, 297, 306–08 & 324.
193. *See supra* note 128.
194. Appendix of Cases, Nos. 135, 138–39, 143–48, 175, 178, 234 & 273.

forum defendant is not considered when determining diversity.[195] After realizing their mistake, defendants in two of the cases consented to remand.[196] One case remains pending in federal court even though it lacks complete diversity.[197]

In twelve of the 100 cases in which the defendant successfully effected pre-service removal, the plaintiffs voluntarily dismissed their claims without prejudice shortly after removal pursuant to F.R.C.P. 41(a)(1)(A)(1), which authorizes a plaintiff to voluntarily dismiss an action in federal court without court order or approval by the opposing party before the opposing party answers or files a motion for summary judgment.[198] The plaintiffs may well have dismissed the cases with the intent to refile them in state court in the hopes of completing service on the forum defendant before removal. In at least three cases, that appears to be exactly what happened because the plaintiff refiled in state court shortly after dismissal only to have the defendant attempt pre-service removal a second time.[199]

D. Types of Claims Involved

As was true with the earlier study of snap removals, the large majority of cases, 334 of 355, involved products liability claims.

Table 5. Types of Cases	
334	Cases that involve products liability claim[200]
21	Cases that do not involve products liability claims[201]
355	Total cases in which pre-service removal was attempted

Moreover, 325 of those 334 products liability cases involved a defendant who attempted to snap remove multiple cases involving similar products liability claims against it.[202] It is not surprising that a handful of forum defendants engaged in serial snap removals. Presumably, they have been advised by general counsel or outside counsel to monitor state court electronic dockets and to remove whenever possible.[203]

Table 6. Number of Cases Based on the Same Product	
128	Cases against Merck & Co. and others (ZOSTAVAX vaccine)[204]
97	Cases against Ethicon, Inc./Johnson & Johnson (mesh implants)[205]
39	Cases against Bayer (Essure device)[206]
20	Cases against Howmedica Corp. (Trident Tritanium Acetabular

	System)[207]
18	Cases against Sanofi-Aventis U.S. LLC, Hospira, Inc. and others (Taxotere/Docetaxel)[208]
11	Cases against Novartis (Tasigna)[209]
6	Cases against Johnson & Johnson and others (baby powder)[210]
4	Cases against Allergan (breast implants)[211]
2	Cases against Bayer (Avelox)[212]
325	Total cases involving defendants who snap removed multiple cases

Although most cases involved products liability claims, several included other types of tort claims.[213] Ten included claims based upon New Jersey employment statutory law[214] and five involved claims challenging the validity of insurance policies.[215]

195. Appendix of Cases, Nos. 275, 304 & 327; *see also supra* notes 117, 178–81 and accompanying text.
196. Appendix of Cases, Nos. 275 & 304.
197. Appendix of Cases, No. 327.
198. Appendix of Cases, Nos. 18, 174, 235, 245–48, 257, 278, 295, 301 & 312.
199. Case No. 235, refiled as Case No. 238; Case No. 257, refiled as Case No. 271; Case No. 301, refiled as Case No. 309.
200. As shown in Table 6, 325 cases were brought against the same nine groups of defendants and involved similar claims as other removed cases. The remaining nine cases involving products liability claims included claims that were unique to that case. Appendix of Cases, Nos. 243, 258, 273, 283, 296, 324, 350, 351 & 354.
201. *See infra* Table 7.
202. *See infra* Table 6.
203. *See infra* notes 234–38 and accompanying text.
204. Appendix of Cases, Nos. 20–126 & 194–214.
205. Appendix of Cases, Nos. 18, 127–48, 174–93, 215–20, 222–28, 230–333, 235–36, 238–42, 244–49, 257, 261–66, 270–72, 274, 276–78, 281–82, 284–89 & 292–293.
206. Appendix of Cases, Nos. 2–9, 12–14, 17, 19, 149–73 & 221.
207. Appendix of Cases, Nos. 250–56, 267–69, 279–80, 290–91, 294–95, 300, 303 & 325–26.
208. Appendix of Cases, Nos. 328–43, 348 & 353.
209. Appendix of Cases, Nos. 310–11, 313–17 & 320–23.
210. Appendix of Cases, Nos. 10, 15, 237, 297, 301 & 309.
211. Appendix of Cases, Nos. 306–08 & 312.
212. Appendix of Cases, Nos. 260 & 298.
213. *See infra* Table 7.
214. *See* cases cited *infra* note 182.
215. *See* cases cited *infra* Table 7.

Table 7. Cases That Did Not Involve Products Liability Claims	
10	Cases involving employment discrimination and other employment claims based on New Jersey statutory law[216]
5	Cases involving the validity of a life insurance policy[217]
1	Shareholder derivative suit[218]
1	Personal injury case arising from tractor's collision with vehicle[219]
1	Wrongful death/premises liability suit[220]
1	Case in which student sued school in connection with an assault[221]
1	Breach of fiduciary suit[222]
1	Case in which plaintiff sued AT&T for conversion of its telecommunications facilities[223]
21	Total cases that do not involve products liability claims

E. Other Data

One hundred forty-three of the 355 cases exclusively involved forums defendants (no non-forum defendants).[224] These include the 97 cases against Ethicon and Johnson & Johnson, both of which are New Jersey corporations with their principal place of business in New Jersey,[225] and the twenty cases against Howmedica Corp., a New Jersey corporation with its principal place of business in New Jersey.[226] Allowing forum defendants to remove cases in which they are the sole defendant(s)

216. Appendix of Cases, Nos. 259, 275, 302, 304–05, 318, 327, 349, 352 & 355.
217. Appendix of Cases, Nos. 11 & 344–47.
218. Appendix of Cases, No. 16.
219. Appendix of Cases, No. 1.
220. Appendix of Cases, No. 229.
221. Appendix of Cases, No. 234.
222. Appendix of Cases, No. 299.
223. Appendix of Cases, No. 319.
224. Appendix of Cases, Nos. 11, 18, 127–48, 174–93, 215–20, 222–28, 230–36, 238–42, 244–57, 261–72, 274, 276–82, 284–95, 300, 302–03, 305, 310–11, 313–18, 320–23, 325–27, 343–47 & 352–55.
225. *See supra* note 204.
226. Appendix of Cases, Nos. 11, 18, 127–48, 174–93, 215–20, 222–28, 230–36, 238–42, 244–57, 261–72, 274, 276–82, 284–95, 300, 302–03, 305, 310–11, 313–18, 320–23, 325–27, 343–47 & 352–55.

clearly contravenes the purpose of the forum defendant rule which was meant to protect out-of-state defendants from potential bias in state court.[227]

Although the majority of complaints did not specifically invoke the law of any given state, plaintiffs in 145 of the 355 cases, explicitly involved the law of the forum state.[228] As discussed below, removal of cases based on the law of the forum state retards the state's ability to determine its own law.

Table 8. Districts to Which Cases Were Removed	
303	D. N.J.[229]
5	D. Del.[230]
45	E.D. Pa.[231]
1	W.D. Pa.[232]
1	M.D. Pa.[233]
355	Total Cases

More than 85 percent of the cases in which snap removal was attempted originated in state courts in New Jersey. It may well be that during the relevant time period, defendants such as Ethicon, Inc., Johnson & Johnson, and Howmedica Corp., all New Jersey citizens, were sued more frequently than defendants sued in other states. It is also possible that these defendants are more adept at monitoring state court electronic systems and engaging in immediate pre-service removal.

F. Snap Removals Will Likely Increase

Although numerous district courts outside the Second, Third and Fifth Circuits have found snap removal improper, now that every circuit court to have addressed the issue has found otherwise, it is likely that going forward, more district courts will be persuaded by the unanimous

227. *See* Beyer, *supra* note 5.

228. Appendix of Cases, Nos. 10, 11, 18, 123–48, 174–92, 215–20, 222–36, 238–42, 244–50, 257, 259–80, 282, 284–95, 300, 302–08, 310–18, 320–23, 325–27, 349, 352–53 & 355.

229. Appendix of Cases, Nos. 10, 15–16, 18, 20–148, 174–220, 222–28, 230–33, 235–42, 244–72, 274–82, 284–98, 300–43, 348–53 & 355.

230. Appendix of Cases, Nos. 11 & 344–47.

231. Appendix of Cases, Nos. 1–9, 12–14, 17, 19, 149–73, 221, 234, 243, 273, 283 & 354.

232. Appendix of Cases, No. 229.

233. Appendix of Cases, No. 299.

appellate court precedent.[234] In addition, in response to the green-light given to snap removal by the Second, Third and Fifth Circuits, and numerous district courts throughout the country, it is inevitable that snap removals will only increase with time, as defense lawyers and frequently sued corporate defendants become more familiar with the practice. Already, defense firms across the country are providing guidance and instruction regarding the manner in which to successfully effectuate snap removals.[235] Targets of frequent suits have been advised to "invest in electronic monitoring of state court dockets to identify suits pre-service."[236] Defense counsel have been advised to keep on hand citizenship information for frequently sued corporate affiliates and to prepare a template for "Notice of Removal" forms.[237] Defense counsel have also been advised to ensure that all properly joined and served defendants join in the removal as required and to immediately answer

234. *See, e.g.*, Whipkey v. Eli Lilly & Co., No. 1:20-cv-00450-SEB-MPB, 2020 WL 3248472, at *4 (S.D. Ind. June 16, 2020) ("[W]e now join our sister district courts in the Seventh Circuit as well as the Second, Third, and Fifth Circuit Courts of Appeals that have concluded that § 1441(b)(2) permits a forum defendant to remove before service of process.").

235. *See, e.g.*, Katie A. Fillmore, *Oh Snap! Federal Circuit Court Recognizes Viability of 'Snap' Removal by In-State Defendant*, BUTLER SNOW: BIZLITNEWS BLOG (Sept. 11, 2018), https://www.butlersnow.com/2018/09/snap-removal-by-in-state-defendant ("[F]requently sued parties may want to invest in electronic monitoring of state court dockets to identify suits pre-service and consider removing these cases to federal court before being served."); Anna Little Morris, *Aw, Snap! Fifth Circuit OKs 'Snap' Removal by Non-Forum Defendants*, BUTLER SNOW: PRODUCT LINES BLOG (Apr. 22, 2020), https://www.butlersnow.com/2020/04/aw-snap-fifth-circuit-oks-snap-removal-by-non-forum-defendants (urging defendants to "be prepared" because "[s]nap removal is a race to remove prior to service on the in-state defendant, and requires early and organized coordination. Close attention must be given to the removal procedure outlined in 28 U.S.C. § 1441 *et seq*."); *see also* Jason C. Rose & Sarah Louise Scott, *Snap Removal – Key Developments and Decisions in 2018*, VENABLE LLP (Mar. 1, 2019), https://www.venable.com/insights/publications/2019/03/snap-removal-key-developments-and-decisions ("Defendants who may wish to evade the forum defendant rule, however, can 'snap remove' an action by removing before any forum defendant is properly served."); Angela R. Vicari, *Removal in a Snap: Third Circuit Endorses Pre-Service Removals*, ARNOLD & PORTER (Sept. 7, 2018), https://www.arnoldporter.com/en/perspectives/publications/2018/09/removal-in-a-snap ("The Third Circuit recently served up an ace for resident defendants seeking to remove cases filed in their home states prior to being served."). Vicari explained that "[i]n a world where venue can mean the difference between winning and losing on the merits, the *Encompass* decision will help set defendants up for early success." *Id*. Vicari provided a "Snap Removal Checklist" advising would-be-defendants to "monitor state court dockets electronically in your home state," "create form/template notices of removal to save precious time," and "have citizenship information for corporate affiliates frequently named as defendants at the ready." *Id.*

236. *See* Fillmore, *supra* note 234.

237. *See* Vicari, *supra* note 234.

the plaintiff's complaint or move for summary judgment upon removal in order to thwart the plaintiff's ability to voluntarily dismiss pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i).[238] Noting that some courts will only allow a non-forum defendant to effectuate snap removal, one defense lawyer suggested that, when possible, it is best "to let the non-resident defendant carry the flag in pre-service removal cases."[239] Given the demonstrated prevalence of pre-service removal in jurisdictions where the tactic has been validated by the appellate court, and the likely continued expansion of the practice, Congress should carefully consider the consequences of permitting pre-service removal to continue.

III. QUALITATIVE ISSUES RAISED BY SNAP REMOVAL

A. Pre-Service Removal Does Not Further Sound Public Policy

Any examination of snap removal should start with a consideration of whether it furthers any sound public policy goal. As discussed above,[240] the legislative history regarding the addition of the "properly joined and served" language in 1948 does not indicate what Congress was trying to achieve by that particular amendment. Congress did not intend to abolish the forum defendant rule.[241] Prior to the 1948 amendment, a case over which the district court would have had original diversity jurisdiction could be removed "by the defendant or defendants therein, being nonresidents of that State."[242] Thus, removal was improper if any defendant was a resident of the forum state.[243]

Several courts have concluded that Congress must have added the "properly joined and served" language in order to provide a bright-line rule (whether the forum defendant has been served) for determining whether the plaintiff fraudulently joined the forum defendant to defeat

238. *See* Morris, *supra* note 234.

239. James M. Beck, *Back to the Well with Pre-Service Removal*, DRUG & DEVICE L. BLOG (Aug. 17, 2018), https://www.druganddevicelawblog.com/2018/08/back-to-the-well-with-pre-service-removal.html.

240. *See supra* notes 38–42 and accompanying text.

241. One of the most significant 1948 amendments—the amendment limiting removal to cases involving a "separate and independent claim or cause of action," rather than a case involving a separable controversy—was clearly intended to curtail removal jurisdiction. *See* Am. Fire & Cas. Co. v. Finn., 341 U.S. 6, 9–10, 10 n.2 (1951).

242. 28 U.S.C. § 71 (1946) (current version at 28 U.S.C. § 1441(b)(2) (2018)).

243. The defendant's residency, rather than citizenship, was determinative. *See, e.g.*, Rich. v. Corno Mills Co., 300 F. 236, 237–38 (N.D. Iowa 1924); Fife v. Whittell, 102 F. 537, 539–40 (N.D. Cal. 1900).

removal jurisdiction even though the plaintiff had no intent to pursue the claim against the forum defendant. In *Encompass*, the Third Circuit held that "Congress' inclusion of the phrase 'properly joined and served' addresses a specific problem—fraudulent joinder by a plaintiff—with a bright-line rule."[244] In *Gibbons*, the Second Circuit held:

> In fact, Congress may well have adopted the "properly joined and served" language in an attempt to both limit gamesmanship and provide a bright-line rule keyed on service, which is clearly more easily administered than a fact-specific inquiry into a plaintiff's intent or opportunity to actually serve a home-state defendant.[245]

In *Texas Brine*, the Fifth Circuit similarly concluded that literally interpreting the "properly joined and served" language does not produce an absurd result because doing so furthers congressional intent to thwart plaintiffs from defeating removal by fraudulently joining forum defendants whom they have no intent to pursue.[246]

The assumption by these courts is that by 1948, fraudulent joinder by plaintiffs was such a troublesome problem that Congress determined that a bright-line test for identifying fraudulent joiner (whether the forum defendant has been served) was preferable to the Supreme Court's established method for identifying fraudulent joinder, which was essentially to determine whether there was any reasonable basis for the claim against the jurisdictional spoiler.[247]

Although the Supreme Court, in cases involving alleged fraudulent joinder during the early 1900s, occasionally used terminology such as "bad faith" and "fraud" that might suggest a subjective test, the Court applied an objective test to identify fraudulent joinder—whether there was a reasonable basis for the claim against the non-diverse defendant.[248] In *Wecker v. National Enameling & Stamping Co.*,[249] the

244. Encompass Ins. Co. v. Stone Mansion Rest. Inc., 902 F.3d 147, 153 (3d Cir. 2018).

245. Gibbons v. Bristol-Myers Squibb Co., 919 F.3d 699, 706 (2d Cir. 2019).

246. Tex. Brine Co. v. Am. Arb. Ass'n, 955 F.3d 482, 485–86 (5th Cir. 2020).

247. Sullivan v. Novartis Pharms. Corp., 575 F. Supp. 2d 640, 645 (D.N.J. 2008).

248. For a thorough discussion of the fraudulent joinder doctrine established by the Supreme Court in the early 1900s, see Percy, *Making a Federal Case of It*, *supra* note 3, at 211–15. *See also* Percy, *Fraudulent Joinder Prevention Act*, *supra* note 2, at 247–48 (discussing whether the Supreme Court's fraudulent joinder doctrine employs a subjective and/or objective test and concluding that the test is objective).

249. Wecker v. Nat'l Enameling & Stamping Co., 204 U.S. 176 (1907). Plaintiff had alleged that the non-diverse employee of the diverse defendant had planned and directed the construction of the furnace near which plaintiff was standing when he was injured. *Id.* at 178–80. In response to plaintiff's motion to remand, the diverse employer submitted

Supreme Court affirmed removal based upon fraudulent joinder for the first time after determining that the plaintiff had no basis for the claims asserted against the non-diverse forum defendant.[250] In *Illinois Central Railroad Co. v. Sheegog*,[251] the plaintiff brought a wrongful death case against the diverse lessee and the non-diverse lessor of the railway tracks where the accident occurred.[252] After noting that applicable state law imposed joint liability upon the lessor and lessee, the Court held that "no motive could make the [plaintiff's] choice [to join the defendants'] fraud" and rejected the lessee's argument that plaintiff had fraudulently joined the lessor.[253] In *Chicago, Rock Island, & Pacific Railway Co. v. Schwyhart*,[254] the Court rejected the removing defendant's argument that joinder was fraudulent because the non-diverse defendant would be unable to satisfy a judgment against him, holding that a plaintiff's motive for joining the spoiler is irrelevant as long as the claim against the spoiler is colorable.[255] In *Chesapeake & Ohio Railway Co. v. Cockrell*,[256] although the court used the term "bad faith," it held that joinder is not fraudulent "unless it was without any reasonable basis."[257]

In *Pullman Co. v. Jenkins*,[258] decided in 1939, the Court rejected a non-resident diverse defendant's attempt to remove a case before service upon the resident defendant.[259] Although the court recognized the possibility that a "non-resident defendant may be prejudiced because his [resident] co-defendant may not be served," the Court held that pre-service removal by the non-resident defendant was improper unless the non-resident defendant demonstrates that the resident defendant was fraudulently joined.[260]

affidavits demonstrating that the non-diverse employee had no responsibility for the construction of the furnace. *Id.* at 183–84.

250. *Id.* at 184–85.

251. Ill. Cent. R.R., v. Sheehog, 215 U.S. 308 (1909).

252. *Id.* at 315.

253. *Id.* at 317–18.

254. 227 U.S. 184 (1913).

255. *Id.* at 193–94.

256. 232 U.S. 146 (1914).

257. *Id.* at 152–53.

258. 305 U.S. 534 (1939).

259. *Id.* at 541.

260. *Id.* In *Pullman*, the defendant removed the case based upon a provision at the time that allowed removal of an entire case, even if the case lacked complete diversity, if there was a separable controversy between diverse parties. *Id.* Finding no separable controversy, the court held that remand was proper, noting that there was no assertion that the non-diverse forum defendant had been fraudulently joined. *Id.* at 539–41.

Given the *Pullman* Court's acknowledgement that a diverse non-resident defendant's ability to remove could be circumvented in a case where the plaintiff joins but does not serve a non-diverse resident defendant, courts and commentators have concluded that Congress added the "properly joined and served" in 1948 to prevent such gamesmanship.[261] One court concluded, "*Pullman* suggests that a problem courts had identified with the removal power was gamesmanship by plaintiffs in the joinder of forum defendants whom plaintiffs ultimately did not intend to pursue."[262]

Although the Court in *Pullman* acknowledged that a non-resident defendant's right to remove based upon diversity *might theoretically* be prejudiced if the plaintiff joins but never serves a non-diverse resident defendant, it is not at all clear that plaintiffs were frequently suing non-resident defendants and joining resident defendants whom they never served. The large majority of cases in which fraudulent joinder was alleged during that time period involved assertions by the removing defendant that there was either no factual or legal basis for the claim against the non-diverse defendant.[263]

Even assuming that plaintiffs were naming non-diverse resident defendants whom they never intended to serve, there is no reason to think that Congress determined it could effectively put an end to such practice by authorizing pre-service removal. At the time, defendants would typically have learned of the lawsuit by service of process.[264] Prior to the 1948 amendments, the removing defendant was required to first file a verified petition for removal in the state court within the time period in which state law required the defendant to plead or answer and to also file a bond.[265] The 1948 amendments replaced this process with a process by which the petition/notice of removal was filed in federal court and the state court played no role in approving or denying the petition for removal.[266] Pursuant to the 1948 amendments, the removing defendant was required to file the petition/notice of removal in federal

261. *See* Hellman et al., *supra* note 33, at 108.

262. Gentile v. Biogen Idec, Inc., 934 F. Supp. 2d 313, 320 (D. Mass. 2013); s*ee also* Hellman et al., *supra* note 33, at 108 (discussing congressional intent behind the "properly joined and served" language).

263. *See, e.g.*, Chesapeake & Ohio Ry. Co. v. Cockrell, 232 U.S. 146, 151 (1914); Wilson v. Republic Iron & Steel Co. 257 U.S. 92, 94 (1921).

264. *See* Nannery, *supra* note 7, at 549.

265. 28 U.S.C. § 72 (1946).

266. *See* Ellen Bloomer Mitchell, *Improper Use of Removal and Its Disruptive Effect on State Court Proceedings: A Call to Reform 28 U.S.C. § 1446*, 21 ST. MARY'S L.J. 59, 85–88 (1989).

court within thirty days after service or the date of commencement of the action in state court, whichever was later.[267] The plaintiff's failure to have completed service of process on the forum defendant prior to removal would not have served as indication that the plaintiff did not intend to pursue the forum defendant and therefore would have been an extremely poor proxy for fraudulent joinder.[268] In addition, at that time, the large majority of cases involving alleged fraudulent joinder were cases in which the plaintiff purportedly joined a non-diverse defendant for the purpose of destroying complete diversity.[269] In fact, neither the Supreme Court nor any appellate court had extended the fraudulent joinder doctrine to a plaintiff's fraudulent joinder of a resident defendant in an attempt to defeat removal by operation of the forum defendant rule.[270] Thus, one would think that any congressional fix would have also applied to all diversity-destroying defendants who had not been served, not just those who were forum defendants.

A plaintiff's failure to serve a forum defendant prior to removal is an even worse proxy for fraudulent joinder today than it would have been in 1948. Today, pre-service removal often occurs within minutes or hours of the filing of the complaint in state court, often before the plaintiff has served any defendant.[271] The plaintiff's failure to serve a forum defendant

267. 28 U.S.C. § 1446(b) (1948).

268. At the time, service upon individuals was usually accomplished by personal delivery of the summons and complaint to the person or personal delivery to someone of suitable age and discretion at the defendant's home. Service upon resident corporations and partnerships was largely accomplished by delivering a copy of the summons and complaint to an officer, a managing or general agent, or any other agent authorized by law or appointment to accept service. *See* DELMAR KARLEN, PRIMER OF PROCEDURE 13 (1950)*; see also* JAMES M. MOORE & JOSEPH FREIDMAN, MOORE'S FEDERAL PRACTICE §§ 4.10, 4.11, 4.18 (1938) (discussing method of service authorized by the recently enacted Federal Rules of Civil Procedure). Some state rules provided for extended periods of time in which to serve defendants. *See* A.M. Swarthout, *Delay in Issuance or Service of Summons as Requiring or Justifying Order Discontinuing Suit*, 167 A.L.R. 1058 (1947) (noting that the CAL. CIV. PROC. CODE § 581(a) provided that an action shall no longer be prosecuted if service was not completed within three years of commencement and that an Arizona statute provided that an action would abate if service was not completed within one year of filing).

269. Matthew J. Richardson, *Clarifying and Limiting Fraudulent Joinder*, 58 FLA. L. REV. 120, 129 (2006).

270. *See* Percy, *Fraudulent Joinder Prevention Act*, *supra* note 2, at 227; *see also* Morris v. Nuzzo, 718 F.3d 660, 666 (7th Cir. 2013) (observing that no appellate court had extended the application of the fraudulent joinder doctrine to the joinder of diverse forum defendants). The Supreme Court cases all involved the alleged fraudulent joinder of a non-diverse defendant. *See* Percy, *Fraudulent Joinder Prevention Act, supra* note 2, at 220–24.

271. Daniel Charles V. Wolf & Desiree F. Moore, *No Snap Decisions Here: Federal Courts Remain Divided Over Pre-service "Snap Removal" Even as Appellate Courts Endorse the Practice*, K&L GATES HUB (Feb. 10, 2020), https://www.klgates.com/No-Snap-Decisions-

within minutes, hours or even days of filing the state court complaint is not any indication, much less a strong indication, that the plaintiff does not intend to pursue the forum defendant. The procedural rules in most states provide the plaintiff with a much longer period of time in which to serve a defendant.[272] Given that technological capabilities make it possible for defendants to immediately remove once the action has been filed in state court,[273] any conclusion that pre-service removal in its current form somehow furthers congressional intent to prevent plaintiffs from defeating removal by strategically joining forum defendants they do not intend to pursue is misguided. A plaintiff's failure to serve a forum defendant before a defendant can snap remove completely fails to indicate any improper strategic behavior or bad faith on the part of the plaintiff.

B. Pre-Service Removal Raises Federalism Concerns

Diversity jurisdiction, and removal based upon diversity jurisdiction, raise federalism concerns because federal courts are empowered to decide cases based upon state law without the possibility of review by the state's highest court.[274] In exercising diversity jurisdiction, federal courts intrude upon the state's right to make the type of policy determinations reserved to the states by the Constitution, particularly in cases where federal courts make an *Erie* guess and resolve novel or ambiguous issues of state law.[275]

Here-Federal-District-Courts-Remain-Divided-Over-Pre-Service-Snap-Removal-Even-as-Appellate-Courts-Endorse-the-Practice-02-10-2020.

272. *See, e.g.*, MISS. R. CIV. P. 4(h) (providing for a 120-day period in which to serve defendants). Even the federal rules contemplate that it may reasonably take a plaintiff ninety days or longer to serve a defendant. FED R. CIV. P. 4(m). Although New Jersey rules do not specify a time period for service of process, in most civil cases, if the plaintiff has not served a defendant within 4 months of filing, the court notifies the plaintiff that the action will be dismissed without prejudice unless the plaintiff serves process within 60 days of the notice. N.J. CT. R. 1:13-7(a).

273. *See* Encompass Ins. Co. v. Stone Mansion Rest. Inc., 902 F.3d. 147, 153 n.4 (3d Cir. 2018).

274. *See* Percy, *Making a Federal Case of It*, *supra* note 3, at 201–02; Percy, *Fraudulent Joinder Prevention Act, supra* note 2, at 235–36.

275. *See* Bradford R. Clark, *Ascertaining the Laws of the Several States: Positivism and Judicial Federalism After Erie,* 145 U. PA. L. REV. 1459, 1500 (1997); E. Farish Percy, *The Tedford Equitable Exception Permitting Removal of Diversity Cases After One Year: A Welcome Development or the Opening of Pandora's Box?*, 63 BAYLOR L. REV. 146, 154–56 (2011) [hereinafter Percy, *Tedford Equitable Exception*]; Dolores K. Sloviter, *A Federal Judge Views Diversity Jurisdiction Through the Lens of Federalism*, 78 VA. L. REV. 1671, 1687 (1992).

> When federal judges make state law . . . judges who are not selected under the state's system and who are not answerable to its constituency are undertaking an inherent state court function.[276]

Often, federal courts mis-predict state law and thereby delay final determination of the issue by the state's highest court.[277] Because the exercise of diversity jurisdiction interferes with and retards a state's ability to determine its own law, the Supreme Court has long held that statutes conferring original diversity jurisdiction and removal jurisdiction based upon diversity must be strictly construed.[278]

In jurisdictions where pre-service removal is permitted, cases that previously would have remained in state court by operation of the forum defendant rule will be removed with relative ease, assuming that frequently sued corporate defendants invest in monitoring electronic dockets.[279] The category of cases in which forum defendants are sued in their home state by an out-of-state plaintiff is likely to be substantial, given that plaintiffs are often forced to sue a corporate defendant in the defendant's state of incorporation or where the defendant's principal place of business is located in order to establish personal jurisdiction over the defendant.[280] In most cases in which a single plaintiff sues the manufacturer of a widely distributed product, the plaintiff is likely to be diverse from the defendant.[281] If that category of cases is now widely decided in federal court rather than state court due to the defendant's ability to snap remove, the impact that pre-service removal will have

276. Sloviter, *supra* note 274, at 1687.

277. *See* Clark, *supra* note 274, at 1500; Percy, *Making a Federal Case of It*, *supra* note 3, at 202; Sloviter, *supra* note 274, at 1680–81.

278. *See* Shamrock Oil & Gas Corp. v. Sheets, 313 U.S. 100, 108–09 (1941); Healy v. Ratta, 292 U.S. 263, 270 (1934).

279. *See* Little v. Wyndham Worldwide Operations, Inc., 251 F. Supp. 3d 1215, 1223 (M.D. Tenn. 2017) (observing that permitting snap removal will essentially eliminate the forum defendant rule for vigilant defendants).

280. *See supra* notes 23–25 and accompanying text. Contrary to one commentator's suggestion that out-of-state plaintiffs suing diverse corporate defendants in the defendants' home state are "litigation tourists," many of them are likely suing the defendant in the defendant's home state because other states lack personal jurisdiction. *See Hearing*, *supra* note 9 (statement of Kaspar Stoffelmayr, Partner, Barlit Beck, LLP) (characterizing plaintiffs who sue defendants in the defendants' home state as litigation tourists seeking a favorable forum).

281. *See* J. McIntyre Mach., Ltd. v. Nicastro, 564 U.S. 873, 882 (2011) (plurality opinion) (regarding specific jurisdiction in stream-of-commerce cases and concluding that "[t]he defendant's transmission of goods permits the exercise of jurisdiction only where the defendant can be said to have targeted the forum.").

upon states' ability to develop their own tort law, particularly products liability law, could be significant. Given that pre-service removal essentially renders the forum defendant rule inoperable with respect to savvy corporate defendants, Congress should carefully consider whether such an expansion of removal jurisdiction is wise given that it will only exacerbate federal courts' intrusion with state courts' right and ability to decide state law.

C. Pre-Service Removal Encourages Gamesmanship, Causes Inefficiency and Drains Federal Court Resources

As long as snap removals are permitted, defendants and plaintiffs will continue to engage in widespread gamesmanship to secure their preferred forum. Just as the defense bar is educating its clients to engage in snap removal, the plaintiffs' bar is instructing lawyers how to avoid pre-service removal and what to do if it occurs.[282] Defendants will incur expense to monitor electronic state court dockets.[283] Plaintiffs will incur expense to attempt to immediately serve the forum defendant.[284] Forum defendants are encouraged to evade service of process in order to

282. *See, e.g.*, Allison W. Reimann, *Removal to Federal Court by Home-State Defendants*, WIS. LAW. (Jan. 9, 2020), https://www.wisbar.org/NewsPublications/WisconsinLawyer/Pages/Article.aspx?Volume=93&Issue=1&ArticleID=27402 ("Plaintiffs who wish to protect their chosen forum and remain in state court should plan a service strategy before filing and effect service as quickly as state law permits."); Danielle Gold & Rayna E. Kessler, *How to Avoid "Snap Removals,"* TRIAL, July 2019, at 54, 56 (counseling plaintiffs' attorneys to serve the forum defendant as soon as possible, noting that "[s]ome plaintiffs have resigned to hiring process servers to sit outside a defendant's headquarters with a laptop and wireless printer to serve the complaint as soon as it is filed and docketed."). Gold and Kessler also advise plaintiffs' counsel to take advantage of the rules in a small minority of states that allow service of the complaint before filing. *Id.* at 58. In addition, they advise plaintiffs' counsel to move to remand if all properly joined and served defendants fail to join in the removal. *Id.* at 58–60; *see also* Tempe D. Smith, *Snap Removal: What Is It and What Do You Do If Happens to You*, 39 ALA. ASS'N. FOR JUST. J. 55, 57 (2019) (cautioning plaintiffs' counsel against relying upon public process servers (such as state court clerks or sheriffs) or sending a request for waiver of service which may then prompt the defendant to remove before actual service. Instead, Smith advises plaintiffs to sue and serve the in-state defendant first and then amend the complaint to add the out-of-state defendants, and instructs plaintiffs' counsel to immediately voluntarily dismiss after pre-service removal pursuant to FED. R. CIV. P. 41(a)(1)(A)(i) and then refile in state court and attempt immediate service upon the forum defendant).

283. Gold & Kessler, *supra* note 281, at 58 ("[D]efense counsel is now recommending that all 'frequently sued parties may want to invest in electronic monitoring of state court dockets to identify suits pre-service and consider removing these cases.").

284. *Id.* at 56.

effectuate pre-service removal.[285] In response to defendants' pre-service removal, plaintiffs may voluntarily dismiss their cases without prejudice knowing that they can refile in state court and possibly avoid removal the second time around by immediately serving the forum defendant.[286]

Given the high stakes over forum selection, defendants are also incentivized to immediately remove a case after filing in state court, even before ensuring that no forum defendant has been served.[287] In other instances, defendants may initiate the removal process prior to service on a forum defendant but fail to complete the removal process before service on a forum defendant.[288] More than 22 percent of the cases identified in the study were remanded to state court because a forum defendant had been served prior to removal.[289] Defendants will continue to remove cases even though there is a possibility of remand because: (i) they may successfully secure a federal forum by completing removal before service on the forum defendant or because the plaintiff fails to timely move for remand; (ii) removal forces plaintiffs to spend time and money moving to remand; (iii) even when remand is granted, defendants benefit from the delay, and (iv) defendants who remove in error are not likely to be sanctioned for wrongful removal.[290]

The shuttling of cases back and forth between state and federal court wastes resources of the courts and the parties and also often substantially delays the resolution of the case in state court given that some remand motions remain pending in federal court for several months.[291] In several of the cases brought against Howmedica Corp. identified by the study, the motions to remand were pending several months and even more than a year.[292] Moreover, it appears that the delay

285. *Id.*

286. *See supra* notes 196–97 (referencing cases in which the plaintiff voluntarily dismissed without prejudice shortly after removal).

287. In the cases identified by the study, defendants frequently asserted in the Notice of Removal that, "upon information and belief," no forum defendant had been served. *See, e.g.*, Appendix of Cases, No. 275.

288. *See supra* notes 129 & 131 and accompanying text.

289. Seventy-nine of 355 cases were remanded by court order on plaintiff's motion to remand or by consent because a forum defendant was served prior to removal. *See supra* notes 114, 122–23 & 183 and accompanying text.

290. *See* Percy, *Fraudulent Joinder Prevention Act*, *supra* note 2, at 235.

291. *See* Nannery, *supra* note 7, at 557 (observing that plaintiffs must assess whether to spend additional time and resources asking an appeals court to allow a case to restart in state court).

292. In seven cases brought against Howmedica, the motions to remand were pending for more than a year. Appendix of Cases, Nos. 250–56. In seven others, the motions to

in remanding the cases to state court in New Jersey hampered an effort to have the Supreme Court of New Jersey create a multi-county litigation (MCL) for Tritanium hip implant cases against Howmedica.[293]

Pre-service removal expends limited federal court resources not only by permanently adding cases to the docket when pre-service removal is successful but also by encouraging removal/remand litigation on the issue of whether pre-service removal was proper. Plaintiffs moved to remand in more than 60 percent of the cases identified by the study.[294] Litigation over forum imposes a heavy price on the judicial system, potentially impacting other cases before the court at a time when many district court dockets are expanding beyond the courts' capacity.[295] In the past, Congress has reformed the removal statutes with the intent of reducing litigation over forum so that federal courts may focus on the merits of the litigation.[296] Congress should prohibit snap removal not only to avoid inefficient removal/remand litigation over forum but also to ensure that federal court resources are not expended in cases exclusively involving forum defendants who will not experience bias in state court. More than 40 percent of the cases identified by the study involved only forum defendants.[297] In a case that doesn't involve any non-forum defendants, the rationale for removal based upon diversity is totally absent.

An additional problem arises when cases are removed and the defendant seeks to have the case transferred to an existing federal MDL action while plaintiff's motion to remand is pending.[298] The removing

remand were pending for more than five months to nine months. Appendix of Cases, Nos. 279, 280, 290, 291, 294, 300 & 303.

293. In a letter to the judge presiding over the cases against Howmedica, plaintiffs' counsel represented that if the 14 cases were to be remanded to state court in a timely fashion, there was a strong likelihood of approval of an MCL by the New Jersey Supreme Court because the total cases pending in state court would then reach the necessary critical mass for approval of an MCL. *See* Letter from Brendan A. McDonough to Justice James B. Clark III, Fusco, et al. v. Howmedica, et al., No. 2:19-cv-15040 (D.N.J. June 12, 2020). The New Jersey Supreme Court had previously denied an application to create an MCL because there were only 11 cases pending in state court at that time.

294. Plaintiffs moved to remand in 214 of 355 cases identified by the study. *See supra* Table 2.

295. *See* Percy, *Inefficient Litigation*, *supra* note 3, at 640.

296. *See id*. at 606–10.

297. One hundred forty-three of the 355 cases identified by the study involved only forum defendants. *See supra* note 223 and accompanying text.

298. 28 U.S.C. § 1407 governs transfer of cases to MDLs. Although most cases identified by the study were not transferred to an MDL action until pending motions to remand were decided, see Appendix of Cases, Nos. 20–126 (ZOSTAVAX MDL), some were transferred to the MDL action prior to expiration of the 30-day period in which to move for remand.

defendant will likely argue that immediate transfer of the removed case to the MDL action prior to resolution of the motion to remand will promote efficiency and consistency, especially where many of the MDL cases involve similar issues regarding the propriety of removal.[299] The plaintiff is likely to view the MDL as "a black hole" where any ruling on the motion to remand is likely to be delayed.[300]

In seventeen of the cases identified by the study, this issue was raised.[301] The defendant removed prior to service upon a forum defendant.[302] The plaintiffs moved to remand arguing that various procedural hurdles made it impossible for them to serve the forum defendant.[303] Defendant moved to stay the court's resolution of the motion to remand pending the Judicial Panel on Multidistrict Litigation's decision regarding transfer of the cases to the MDL.[304] Defendant argued that the court should exercise its discretion to stay any ruling on the motion to remand pending the JPML's determination on transfer because doing so would promote uniformity, consistency and efficiency.[305] So not only are the parties litigating over forum, they are litigating over which federal court should decide the motion to remand.[306] The cases were

Appendix of Cases, Nos. 194–214 (ZOSTAVAX MDL), No. 233 (Ethicon Hernia Mesh MDL), and No. 353 (Taxotere MDL).

299. *See* Hannah R. Anderson & Andrew G. Jackson, *The Case for MDL Reform: Addressing the Flaws in A Critical System*, 77 BENCH & BAR MINN. 13, 13 (2020) ("Aggregation can maximize fair and efficient case management, minimize duplication, reduce cost and delay, enhance the prospect of settlement, promote consistent outcomes, and increase procedural fairness.").

300. *See* George M. Fleming & Jessica Kasischke, *MDL Practice: Avoiding the Black Hole,* 56 S. TEX. L. REV. 71, 71 (2014) ("With 281 MDLs active today, a large portion of the country's federal civil cases are conducted through MDLs. With the small number of MDL judges managing such a large share of active cases, there is a tendency for some of these cases to become stagnant. When this happens, the MDL can become the proverbial 'black hole,' taking in cases with virtually no hope of fair and efficient resolution.").

301. Appendix of Cases, Nos. 328–43 & 348.

302. *See* Appendix of Cases, Nos. 328–43 & 348.

303. *See* Appendix of Cases, Nos. 328–43 & 348 (discussing how plaintiffs argued that the removals were improper because plaintiffs were unable to serve defendants due to clerical issues resulting from New Jersey's COVID-19 Emergency Orders limiting staff in the clerk's office and prohibiting servers' swift access to the clerk's office).

304. *See* Brief on Behalf of Defendants Hospira, Inc. and Hospira Worldwide, LLC F/K/A Hospira Worldwide, Inc. in Opposition to Plaintiffs' Omnibus Motion to Remand Pursuant to 28 U.S.C. § 1447(c) and in Support of Cross-Motion to Stay All Proceedings Pending JPML Transfer at 2, Jordan v. Hospira, Inc. et al., No. 3:20-CV-06503-PGS-DEA (D.N.J. July 20, 2020).

305. *See id.*

306. *See* Appendix of Cases, Nos. 328–43 & 348.

transferred to the MDL action where the motions to remand are still pending almost six months after transfer.[307]

D. Pre-Service Removal Produces Fairness Concerns

The inconsistent manner in which courts have interpreted the "properly joined and served" language means that defendants in some jurisdictions enjoy the right to engage in pre-service removal to secure a federal forum while defendants in other jurisdictions do not. This inconsistent treatment raises questions of fundamental fairness and impairs the "bedrock American principle that federal law should be uniform."[308] The Supreme Court has stressed the necessity of uniform application of federal law.[309]

Even if all courts were to uniformly hold that pre-service removal is permissible, defendants in some jurisdictions would enjoy an advantage based on state procedural rules that render it impossible for the plaintiff to immediately serve the forum defendant in certain states.[310] As the Supreme Court held in *Shamrock Oil & Gas Co. v. Sheets*:

> The removal statute which is nationwide in its operation, was intended to be uniform in its application, unaffected by local law definition or characterization of the subject matter to which it is to be applied. Hence the Act of Congress must be construed as setting up its own criteria, irrespective of local law, for determining in what instances suits are to be removed from the state to the federal courts.[311]

307. *Id.* One of the seventeen cases was dismissed with prejudice pursuant to a stipulation. The remand motions remain pending in the remaining sixteen cases.

308. Jonathan M. Cohen & Daniel S. Cohen, Iron-*ing out Circuit Splits: A Proposal for the Use of the* Irons *Procedure to Prevent and Resolve Circuit Splits Among United States Courts of Appeals*, 108 CAL. L. REV. 989, 990, 997 (2020) (observing that "[c]ircuit splits undermine the uniformity, consistency, and predictability of federal law"); *see also* Henry J. Friendly*, Indiscretion About Discretion*, 31 EMORY L. J. 747, 758 (1982) (observing that the most basic jurisprudential rule demands that like cases be treated in a like manner).

309. *See, e.g.*, Cohens v. Virginia, 19 U.S. (6 Wheat.) 264, 416 (1821); Martin v. Hunter's Lessee*,* 14 U.S. (1 Wheat.) 304, 347–48 (1816).

310. *See, e.g.*, Laugelle v. Bell Helicopter Textron, Inc., No. 10-1080 (CMS), 2012 WL 368220, at *2 (D. Del. Feb. 2, 2012) (observing that literal interpretation of the state law would "promote inequitable application of the removal statue across the country due to the varying rules on in-state service").

311. Shamrock Oil & Gas Corp. v. Sheets, 313 U.S. 100, 104 (1941). The plaintiff unsuccessfully argued that although plaintiff was nominally a plaintiff in state court, "it was in point of substance a defendant to the cause of action asserted in the counterclaim

Similarly, in *Chicago, Rock Island & Pacific Railroad Co. v. Stude*,[312] the Supreme Court held that state "procedural provisions cannot control the privilege [of] removal granted by the federal statute."[313]

In *Gibbons*,[314] the Second Circuit dismissed any concern that state-to-state variation of procedural rules governing service would impact defendants' ability to engage in pre-service removal, citing *Murphy Brothers v. Michetti Pipe Stringing*,[315] in which the Supreme Court discussed state-to-state variation of the date which triggers the time-period in which a defendant may remove.[316] The variability of state procedural rules regarding service of process observed and tolerated by the Supreme Court in *Murphy*, however, affected the date on which the time period for removal is triggered.[317] That variability did not have the practical effect of determining whether a defendant would be able to exercise the right to remove; it merely impacted determination of the time period in which the defendant could seek removal.[318]

It is irrational to establish a system whereby the defendant's right to remove to federal court turns on whether the plaintiff is able to perfect service on the forum defendant with lightning speed.[319] When Congress added the "properly joined and served" language in 1948, it most certainly did not intend to condition the right to remove upon the defendant's ability to engage in a race to the courthouse enhanced by the technological ability to contemporaneously monitor state court electronic filings.[320] Although some have argued that Congress's failure to prohibit pre-service removal when it enacted the Federal Courts Jurisdiction and

upon which, under Texas procedure, judgment could go against the plaintiff in the full amount demanded." *Id.*

312. Chi., R.I & P.R., Co. v. Stude, 346 U.S. 574 (1954).

313. *Id.* at 580.

314. Gibbons v. Bristol-Myers Squibb Co., 919 F.3d 699, 706 (2d Cir. 2019).

315. Murphy Bros. v. Michetti Pipe Stringing, Inc., 526 U.S. 344 (1999).

316. *Id.* at 351–54.

317. *See id.* at 354.

318. *See id.*

319. *See, e.g.*, Bowman v. PHH Mortg. Corp., 423 F. Supp. 3d 1286, 1292 (N.D. Ala. 2019) (observing that a plain meaning interpretation of section 1441(b)(2) encourages races to the courthouse and characterizing such races to the courthouse as "chicanery").

320. *See* Gentile v. Biogen Idec, Inc., 934 F. Supp. 2d 313, 316 (D. Mass. 2013) ("Congress almost certainly did not intend to sponsor the sort of race to the courthouse conducted here to make an end run around the forum defendant rule."); Sullivan v. Novartis Pharms. Corp., 575 F. Supp. 2d 640, 645 (D.N.J. 2008) ("Congress could not possibly have anticipated the tremendous loophole that would one day manifest from technology enabling forum defendants to circumvent the forum defendant rule by, *inter alia,* electronically monitoring state court dockets. Thus, Congress would have had no thought to wording the statute with this modern problem in mind.").

Venue Clarification Act of 2011 indicates that Congress approved of the tactic, nothing in the legislative history of the 2011 Act indicates any congressional intent to sanction or approve pre-service removal.[321] Even if one were to interpret this congressional silence as approval, pre-service removal in 2011 was not nearly the phenomenon it is today. It was not as widespread as it is today and had only been addressed by district courts, many of which found pre-service removal improper.[322] Regardless of congressional intent in 1948 or 2011, Congress should reconsider the "properly joined and served" language in Section 1441(b)(2) in light of the current data and should scrutinize whether it makes sense to condone a practice that fails to effectively achieve its purported purpose while at the same time raises federalism concerns, drains federal court resources, and incentivizes plaintiffs and defendant to engage in gamesmanship.

IV. LEGISLATIVE REFORM IS NECESSARY

Legislative reform of the removal statutes, rather than judicial reform, is necessary.[323] While many scholars and courts have argued that a "plain meaning" interpretation of the statute leads to an absurd result and should be eschewed,[324] it is unlikely that the practice of pre-service removal will be halted in the near future by the Supreme Court in a case in which it determines that a literal interpretation of the statutory language contravenes congressional intent and public policy. First, it is unlikely that the Supreme Court would address the issue in the absence of a circuit court split,[325] and given that every circuit court that has addressed the issue has held pre-service removal proper based upon a literal interpretation of the statutory language, there may not be a circuit court split in the near future, and even if there is, such a circuit court

321. *See* Nannery, *supra* note 7, at 549; Stempel et al., *supra* note 8, at 41–44.

322. *See* Nannery, *supra* note 7, at 549.

323. Although some non-legislative responses have been suggested, legislative reform would be more effective and could be timelier. As an example, the American Association for Justice (AAJ) has proposed amending F.R.C.P. 4(d) to include a new subsection (6) that would equate a defendant's actual knowledge of the lawsuit as a waiver of service by all defendants if defendants are served within 30 days of any action by any defendant. *See* Stempel et al., *supra* note 8, at 55–56 (critiquing the AAJ's proposal).

324. *See supra* note 85–86 and accompanying text (discussing district court opinions rejecting a literal interpretation); *see also* Stempel et al., *supra* note 8, at 33–49 (arguing that a textualist approach yields absurd results).

325. *See* Evan Bernick, *Federalism & Separation of Powers*, *The Circuit Splits Are Out There—and the Court Should Resolve Them*, 16 FEDERALIST SOC'Y 36, 36 (2015) (reporting that Chief Justice Roberts emphasized that circuit court splits are "far and away the most important consideration in deciding whether to grant cert petitions").

split would not guarantee resolution of the split by the Court.[326] Moreover, even if the Supreme Court were to address the issue, it could affirm the textualist approach taken by the Second, Third, and Fifth Circuits, leaving any unintended consequences to be corrected by Congress.[327]

V. POTENTIAL LEGISLATIVE FIXES

In examining the various proposed legislative fixes, Congress must first determine whether it wants to attempt to thwart the particular type of fraudulent joinder that the "properly joined and served" language is presumed to address—cases in which the plaintiff joins the forum defendant to defeat removal even though the plaintiff has no intention of pursuing the claim against the forum defendant.[328] Although many courts have held that fraudulent joinder cannot be established by plaintiff's lack of intent to prosecute the claim against the spoiler because Supreme Court precedent establishes an objective test for fraudulent joinder,[329] some courts have found removal proper based upon assertions

326. *See* Cohen & Cohen, *supra* note 306, at 990–91 (observing that the recent increase in the number of unresolved circuit splits is likely to continue in light of the growing caseloads of appellate courts and the reduction in number of cases decided by the Supreme Court).

327. *See* Tex. Brine Co. v. Am. Arb. Ass'n, 955 F.3d 482, 486 (5th Cir. 2020) ("Even if we believed that there was a 'drafter's failure to appreciate the effect of certain provisions,' such a flaw by itself does not constitute an absurdity. We are not the final editors of statutes, modifying language when we perceive some oversight."); Encompass Ins. Co. v. Stone Mansion Rest. Inc., 902 F.3d 147, 154 (3d Cir. 2018) ("Reasonable minds might conclude that the procedural result demonstrates a need for change in the law; however, if such change is required, it is Congress – not the Judiciary – that must act.").

328. This article assumes that Congress desires to continue to enforce the forum defendant rule. If not, then it should abolish the forum defendant rule in its entirety rather than retain it in a half-hearted fashion that leads to numerous problems. The author is not suggesting that any such extension of removal jurisdiction would be desirable, given the serious federalism concerns that would be raised by abolition of the forum defendant rule, not to mention the increased demands such an extension of removal jurisdiction would place on the federal judiciary.

329. *See, e.g.*, Cline v. St. Jude Med. Inc., No. 1:13-CV-2628-AT, 2013 WL 12067482, at *3 (N.D. Ga. Oct. 31, 2013); Selman v. Pfizer, Inc., No. 11-cv-1400-HU, 2011 WL 6655354, at *6–9 (D. Or. Dec. 16, 2011); *see also* Percy, *Fraudulent Joinder Prevention Act*, *supra* note 2, at 247–48 (contending that the Supreme Court test for fraudulent joinder is objective); Percy, *Making a Federal Case of It*, *supra* note 3, at 211–15 (discussing Supreme Court precedent governing fraudulent joinder).

that the plaintiff lacks a good faith intent to prosecute the non-diverse or forum defendant.[330]

Regardless of the common law governing fraudulent joinder, Congress could certainly enact legislation for the purpose of thwarting strategic joinder of a forum defendant the plaintiff has no intention of pursuing. In fact, the proposed Fraudulent Joinder Prevention Act of 2016 would have authorized removal in cases where the district court finds objective evidence that the plaintiff lacks a good faith intent to prosecute the action against the jurisdictional spoiler.[331] For the purposes of that bill, such evidence might have included the plaintiff's failure to serve the jurisdictional spoiler within some reasonable amount of time, the plaintiff's failure to prosecute the claim, the plaintiff's failure to depose the spoiler, or the plaintiff's failure to designate expert witnesses in support of the claim against the spoiler.[332] As previously argued by the author, if Congress were to authorize removal in cases where the defendant is able to demonstrate that the plaintiff lacks a good faith intent to prosecute the claim against the spoiler, plaintiffs will simply respond by actively litigating the claim against the spoiler to the necessary extent to avoid removal.[333]

If Congress determines to allow removal of cases in which the plaintiff has no intent to pursue the spoiler, it should select an accurate proxy that can be easily determined by a bright-line rule, that does not unnecessarily intrude on states' ability to establish and enforce procedural rules governing service of process, and that is likely to be effective. Although it is relatively easy to determine whether the plaintiff served the forum defendant prior to removal, the plaintiff's failure to serve the forum defendant prior to removal is no indication whatsoever that the plaintiff does lack intent to pursue the spoiler.

A. "Snapback" Proposals

The Removal Jurisdiction and Clarification Act of 2020 (H.R. 5801) and an earlier proposal by five law professors that appears to the basis

330. *See, e.g.*, Barlow v. John Crane-Houdaille, Inc., No. WDQ-12-1780 & No. WDQ-12-1781, 2015 WL 11070882, at *7–8 (D. Md. Oct. 8, 2015). Similarly, some courts have held that the plaintiff's failure to actively litigate the claim against the jurisdictional spoiler constitutes "bad faith" thereby making removal possible more than one year after commencement pursuant to 28 U.S.C. § 1446(c). *See, e.g.*, Aguayo v. AMCO Ins. Co., 59 F. Supp. 3d 1225 (D.N.M. 2014).

331. Fraudulent Joinder Prevention Act of 2016, H.R. 3624, 114th Cong. § 2 (2016).

332. *See* Percy, *Fraudulent Joinder Prevention Act*, *supra* note 2, at 249.

333. *Id.*

for the bill have been characterized as "snapback" proposals because both would continue to allow pre-service removal but would authorize the plaintiff to move for remand after serving a forum defendant within a specified time period.[334]

> H.R. 5801 would amend Section 1447 by adding the following subparagraph:
>
> (f)(1) A court shall remand a case described in paragraph (2) to the State court from which it was removed if—
>
> (A) within 30 days after filing of the notice of removal under section 1446(a), or within the time specified by State law for service of process, whichever is shorter, a defendant described in paragraph (2)(B) is properly served in the manner prescribed by State law; and
>
> (B) a motion to remand is made in accordance with, and within the time specified by, the first sentence of subsection (c).
>
> (2) This subsection shall apply to a case in which—
>
> (A) a civil action is removed solely on the basis of the jurisdiction under section 1332(a) of this title; and
>
> (B) at the time of removal, any party in interest properly joined as a defendant is a citizen of the State in which such action is brought, but has not been properly served.[335]

H.R. 5801 would also amend Section 1448 as follows:

> Except as provided in section 1447(f), in all cases removed from any State court to any district court of the United States in which any one or more of the defendants has not been served with process or in which the service has not been perfected prior to removal, or in which process served proves to be defective, such

334. *See* Hellman et al., *supra* note 33, at 109–10 (setting out the law professors' proposed language to amend section 1447). One of the law professors, Professor Hellman, testified at the November 2019 hearing and referred to the proposal as the "snapback" proposal. *See Hearing*, *supra* note 9, at 14 (statement of Arthur D. Hellman, Professor of Law Emeritus, University of Pittsburgh School of Law).

335. Removal Jurisdiction Clarification Act of 2020, H.R. 5801, 116th Cong. (2020) (the proposed amendment is underlined); 28 U.S.C. § 1448 (2018).

> process or service may be completed or new process issued in the same manner as in cases originally filed in such district court.
>
> This section shall not deprive any defendant upon whom process is served after removal of his right to move to remand the case.[336]

The bill would require that the motion for remand be filed within the time specified by the first sentence of subsection (c). The first sentence of Section 1447(c) provides in pertinent part that "a motion to remand the case on the basis of any defect other than lack of subject matter jurisdiction must be made within 30 days after the filing of the notice of removal under section 1446(a)."[337] Thus, under the bill, the plaintiff would have at most thirty days after the notice of removal was filed in which to serve the forum defendant and then move to remand. Generally, a plaintiff in federal court has at least a ninety-day period in which to serve a defendant after filing the complaint in federal court.[338] Currently, if a case is removed from state to federal court, the plaintiff is given ninety days after the notice of removal is filed in which to serve unserved defendants.[339] In addition, the federal district court *must* extend the ninety-day period upon a showing of good cause and *may* grant an

336. Removal Jurisdiction Clarification Act of 2020, H.R. 5801, 116th Cong. (2020).

337. Given that the bill only requires remand upon a proper and timely motion, the case will remain in federal court absent a timely motion to remand. *See* 28 U.S.C. § 1447(c) (2018). This is consistent with majority view that the forum defendant rule is procedural rather than jurisdictional. Lively v. Wild Oats Mkts., Inc., 456 F.3d 933, 940 (9th Cir. 2006) (joining eight of the nine circuits that have addressed the issue in finding the rule procedural). Treating the forum defendant rule as procedural rather than jurisdictional means that the forum defendant rule is waived by the plaintiff if the plaintiff fails to move to remand within the 30-day period. *Id.*; *see also* Hellman et al., *supra* note 33, at 109.

338. FED. R. CIV. P. 4 provides in pertinent part:

> (m) Time Limit for Service. If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

The presumptive time for serving a defendant was reduced from 120 days to 90 days in 2015 in order to shorten the delay at the outset of litigation. *See* FED. R. CIV. P. 4 (advisory committee's note to 2015 amendment).

339. *See* Whidbee v. Pierce Cnty., 857 F.3d 1019, 1023 (9th Cir. 2017) (interpreting 28 U.C.S. §1448 and FED. R. CIV. P. 4(m) and 81(c)(1)); Micromedia v. Automated Broad. Controls, 799 F.2d 230, 232–33 (5th Cir. 1986) (same); *see also* 4A CHARLES ALAN WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE AND PROCEDURE § 1082 (4th ed. 2020).

extension absent a showing of good cause.[340] Courts have found good cause when

> the plaintiff's failure to complete service is the result of conduct of a third person (typically the process server), the defendant has evaded service of the process or engaged in misleading conduct, the plaintiff has acted diligently in trying to effect service or there are understandable mitigating circumstances, or the plaintiff is proceeding pro se or in forma pauperis.[341]

The bill, however, would give no authority to district court judges to extend the thirty-day time period in which the plaintiff must serve the forum defendant and then move to remand, even when the forum defendant evades service or there are other circumstances that would constitute good cause for the plaintiff's inability to serve the forum defendant within thirty days.

The bill would require that post-removal service be made in the manner prescribed by state law even though the case has been removed to federal court.[342] The reference to state law is peculiar given that the case is in federal court.[343] In its current form, section 1448 authorizes plaintiffs in removed cases to effectuate process in the same manner as if the case had been filed in federal court.[344]

In the light of the post-removal thirty-day limitation to service methods authorized by state law, plaintiffs would be unable to serve the forum defendant by requesting a waiver of service of process pursuant to F.R.C.P. 4(d).[345] Nor would plaintiffs be able to take advantage of corollary rules in state courts given the limited time period in which plaintiffs must serve the forum defendant and move to remand.[346] Plaintiffs would thus have to resort to other methods of service that are likely costlier.

340. *See* FED. R. CIV. P. 4(m). FED. R. CIV. P. 6(b)(1)(A) also governs motions for extension of time and gives the court discretion to extend the time period for service upon a showing of good cause.

341. 4B CHARLES ALAN WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE AND PROCEDURE § 1137 (4th ed. 2020); s*ee also* Cox v. Sandia Corp., 941 F.2d 1124, 1125 (10th Cir. 1991) (noting that the legislative history of the rule indicates that evasion of service of process constitutes "good cause," citing 1982 U.S. Code Cong. & Admin. News 4434, 4446 n.25); Geiger v. Allen, 850 F.2d 330, 333 (7th Cir. 1988) (same).

342. *See* Removal Jurisdiction Clarification Act of 2020, H.R. 5801, 116th Cong. (2020).

343. See *id.*

344. 28 U.S.C. § 1448 (2018).

345. FED. R. CIV. P. 4(d)(1)(F).

346. *See supra* text accompanying note 265.

The professors' "snapback" proposal avoids some of the problems posed by the bill because it provides that a plaintiff may serve the forum defendant within the time period allowed by the federal rules and authorizes the plaintiff to move for remand within thirty days after serving the forum defendant.[347] This proposal would give the plaintiff more time in which to serve the forum defendant and would not curtail district courts' authority to extend the ninety-day time period.[348]

The professors predict that if the proposed "snapback" legislation were enacted, the incidence of pre-service removal would "diminish sharply, as defendants come to recognize that the stratagem will no longer enable them to circumvent the forum-defendant rule."[349] Although one professor conceded that the "snapback" legislation could "entrench snap removal into the removal scheme,"[350] he concluded that such entrenchment is unlikely because removing defendants will often be repeat players thereby giving their counsel incentive to reserve resources and refrain from "antagoniz[ing] the district judges in their home state by removing cases that will be swiftly remanded to the state court."[351]

Neither the bill nor the professors' "snapback" proposal will dissuade defendants from engaging in snap removal. The prediction that defense lawyers will curb their use of pre-service removal because remand would be likely in a majority of cases fails to acknowledge that defendants have long engaged in removal tactics even though remand is a strong possibility or even likely.[352] A recent study by the author demonstrated that the remand rate for cases removed pursuant to the "bad faith" exception to the bar on removal of diversity cases after one year was 85 percent.[353] An earlier study by the author revealed a remand rate of more than 83 percent in cases removed pursuant to the *Tedford* equitable exception to the one-year bar on removal of diversity cases.[354] Another

347. *See* Hellman et al., *supra* note 33, at 110.

348. *See Hearing*, *supra* note 9, at 19–20 (statement of Arthur D. Hellman, Professor of Law Emeritus, University of Pittsburgh School of Law).

349. *See Hearing*, *supra* note 9, at 15 (statement of Arthur D. Hellman, Professor of Law Emeritus, University of Pittsburgh School of Law).

350. *Id.* at 19.

351. *Id.* at 16.

352. *See* Theodore Eisenberg & Trevor W. Morrison, *Overlooked in the Tort Reform Debate: The Growth of Erroneous Removal,* 2 J. EMPIRICAL LEGAL STUD. 551, 568–76 (2005) (concluding that the empirical evidence of numerous erroneous removals in some jurisdictions can be attributed to defendants' increasingly abusive removal tactics, at least in part).

353. *See* Percy, *Inefficient Litigation*, *supra* note 3, at 599–600.

354. *See* Percy, *Tedford Equitable Exception, supra* note 274, at 178–80.

study demonstrated that the remand rate for cases in which the removing defendant asserted fraudulent joinder was more than 59 percent.[355]

Given that the forum defendant rule is procedural rather than jurisdictional, defendants will continue to snap remove cases whenever possible. Doing so gives rise to the possibility that the case will remain in federal court either because the plaintiff fails to timely serve the forum defendant or because the plaintiff fails to timely move for remand. In addition, even if the case is eventually remanded, the defendant benefits from the delay caused by removal.[356] As this study indicates, repeat players in the federal district courts in the Third Circuit have continually attempted pre-service removal in cases without first ensuring that the forum defendant has not been served. In response to motions to remand, defendants have asserted that evasion of service is permissible and have asserted questionable legal arguments in opposition to plaintiffs' motion to remand. Such behavior suggests a willingness to risk antagonizing local district court judges in order to gain the coveted federal forum.

Defenders of the "snapback" approach laud its simplicity and caution that more significant or complicated revision would "create a serious risk of inadvertently unsettling other doctrines of removal law."[357] They also argue that although a plaintiff's failure to serve the forum defendant within ninety days after removal is not a perfect test for determining whether the plaintiff intends to pursue the forum defendant, it is a bright-line rule that serves as an adequate proxy.[358] Even though the "snapback" approach would not require extensive amendment, it would clearly serve to reinforce the practice of snap removal in those jurisdictions where it has already been approved and it would establish pre-service removal as a legitimate tactic in all other jurisdictions. Given that any "snapback" proposal is likely to encourage significant removal/remand litigation because the plaintiff will often move to remand after service on the forum defendant, Congress should consider

355. Christopher Terranova, *Erroneous Removal as a Tool for Silent Tort Reform: An Empirical Analysis of Fee Awards and Fraudulent Joinder*, 44 WILLAMETTE L. REV. 799, 831 (2008).

356. *See Hearing*, *supra* note 9, at 8 (statement of James E. Pfander, Owen L. Coon Professor of Law, Northwestern University Pritzker School of Law) (questioning whether the snapback proposal will discourage defendants from attempting pre-service removal and suggesting that the "value of snap removal may lead defendants to exploit the new rule"); Stempel et al., *supra* note 8, at 54 (questioning whether the snapback proposals will curb pre-service removal as predicted).

357. *See* Hellman et al., *supra* note 33, at 108.

358. *See Hearing*, *supra* note 9, at 12 (statement of Arthur D. Hellman, Professor of Law Emeritus, University of Pittsburgh School of Law).

whether such a scheme is worth the cost, since the large majority of removed cases would likely be remanded after the plaintiff's service on the forum defendant.

B. Prohibit Removal Prior to Service

Given the drawbacks of the "snapback" proposals, others have suggested that it would be far wiser to devise a system whereby pre-service removal is foreclosed altogether. "Such an approach would have the virtue of ending, rather than institutionalizing, the practice and eliminating the wasteful behavior that [snapback proposals] might encourage."[359] As Professor James Pfander stated when he testified at the 2019 congressional hearing on snap removal, "an ounce of prevention is worth a pound of cure."[360] Prohibiting a defendant from removing prior to service is one such preventative measure that has been suggested.[361] The prohibition could be accomplished by amending Section 1446(a) so as to provide that only a "properly served defendant" may remove. As revised, it would read:

> (a) Generally.—
>
> A properly served defendant or defendants desiring to remove any civil action from a State court shall file in the district court of the United States for the district and division within which such action is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action.[362]

359. *Hearing*, *supra* note 9, at 8 (statement of James E. Pfander, Owen L. Coon Professor of Law, Northwestern University Pritzker School of Law).

360. *Hearing*, *supra* note 9, at 7 (supplementary statement of Arthur D. Hellman, Professor of Law Emeritus, University of Pittsburgh School of Law.)

361. *See* Nannery, *supra* note 7, at 578–81 (raising this amendment as a potential solution); *see also Hearing*, *supra* note 9, at 11–12 (statement of James E. Pfander, Owen L. Coon Professor of Law, Northwestern University Pritzker School of Law) (referring to this proposal as "The Clermont Fix" because Professor Kevin Clermont communicated with Professor Pfander about this possible solution after it was suggested by a student in Professor Clermont's class).

362. *See generally Hearing*, *supra* note 9 (statement of James E. Pfander, Owen L. Coon Professor of Law, Northwestern University Pritzker School of Law) (the proposed amendment is underlined).

As has been noted by others, such an amendment would be consistent with the Supreme Court's decision in *Murphy Brothers* that formal service, rather than notice, triggers the time period in which to remove.[363] It is also consistent with revisions suggested by the American Law Institute in its Federal Judicial Code Revision Project in 1999 that would bar removal by a defendant until such defendant has been served or has waived service.[364]

While this approach is relatively simple and would avoid many of the issues caused by the "snapback" proposals, it is not perfect. Plaintiffs' counsel, unfamiliar with the rule, might inadvertently serve the non-forum defendant first.[365] In other instances, the forum defendant's evasion of service of process might make it necessary to serve the non-forum defendant first.[366] Thus, this approach gives rise to the possibility that cases involving forum defendants will be successfully removed even though the forum defendants were not strategically joined. In weighing this approach as a potential legislative fix, Congress should consider whether there is an alternative approach that would more faithfully serve the forum defendant rule.

C. Allow Pre-Service Removal if No Forum Defendant is Served Within 120 Days of Commencement in State Court

Another group of professors proposes amending Section 1441(b)(2) as follows:

> A civil action otherwise removable solely on the basis of the jurisdiction under section 1332 (a) of this title may not be removed if any of the parties in interest properly joined ~~and served~~ as defendants is a citizen of the State in which such action is brought. If no defendant who is a citizen of the forum state is served within 120 days of commencement of the action, removal

363. *See Hearing*, *supra* note 9, at 12 (statement of James E. Pfander, Owen L. Coon Professor of Law, Northwestern University Pritzker School of Law); Nannery, *supra* note 7, at 580; Stempel et al., *supra* note 8, at 58.

364. *See* AM. L. INST., FEDERAL JUDICIAL CODE REVISION PROJECT 450 (2004); *see also* Nannery, *supra* note 7, at 580 (discussing the ALI proposal and observing that some courts have interpreted the current statute to make service a prerequisite to removal).

365. *See* Stempel et al., *supra* note 8, at 60.

366. *Id.*

> may be sought within the time period provided by Section 1446.[367]

In comparison to the "snapback" proposals, this proposal does not set up a statutory scheme whereby large numbers of cases will be removed to federal court only to be remanded to state court after service on the forum defendant. It allows removal in cases only after a plaintiff has failed to serve a forum defendant within 120 days of commencing the case in state court. Its proponents argue that this proposed legislative "fix" would provide defendants with an additional tool to thwart plaintiffs' joinder of forum defendants whom they have no intention of pursuing.[368]

While this approach is straightforward and is preferable to the "snapback" proposals, it undermines state procedural statutes or rules regarding service of process. Some state rules may give plaintiffs more than 120 days in which to serve a defendant.[369] Many state rules authorize the trial judge to extend the time period for service beyond 120 days based upon a showing of good cause.[370] There will be cases in which the plaintiff is not reasonably able to serve the forum defendant within 120 days, especially if the forum defendant is evading service. In such cases, the state court may well have extended the time-period for service based upon the plaintiff's demonstration of good cause.

While the 120-day time period is a bright line rule, it is premised on the assumption that failure to serve the forum defendant within 120 days will be an accurate and effective proxy for strategic joinder of forum defendants whom the plaintiff has no intention of pursuing. As sophisticated plaintiffs' lawyers engaged in strategic joinder become familiar with the rule, however, they will no doubt go to the ends of the earth to ensure that the forum defendant is served within 120 days. Thus, while a handful of cases may be successfully removed where the plaintiff truly did engage in strategic joinder and failed to accomplish service within 120 days of commencement, there are likely to be a commensurate or even greater number of cases where the plaintiff has good cause for the failure to timely serve the forum defendant within 120 days. Even though using plaintiff's failure to serve the forum defendant within 120 days of commencement is a better proxy for strategic joinder than a plaintiff's failure to serve the forum defendant within a shorter period of time, it would likely lose its efficacy over time as plaintiffs learned the

367. *Id.* at 52.
368. *Id.*
369. *See id.* at 53.
370. *See supra* note 271 and accompanying text.

consequences of failing to serve forum defendants within 120 days, and it would also be over-inclusive in a range of cases where state procedural rules provide longer time periods for service or, even more troubling, where state court judges have extended the time period for service based upon a showing of good cause.

Moreover, as is true with respect to the "snapback" proposals and the proposal conditioning the removing defendant's right to remove upon service, this approach only addresses plaintiff's strategic joinder of a forum defendant to defeat removal. None of the proposals address a plaintiff's strategic joinder of a non-diverse defendant to defeat removal.[371] If Congress intends to thwart strategic joinder, it should enact legislation that bars strategic joinder which defeats complete diversity as well as strategic joinder of a forum defendant.

D. Strike the "and Served" Language from 1441(b)(2)

Another suggestion is to delete the "and served" language from section 1441(b)(2):

> A civil action otherwise removable solely on the basis of the jurisdiction under section 1331 (a) of this title may not be removed if any of the parties in interest properly joined ~~and served~~ as defendants is a citizen of the State in which such action is brought.[372]

The author advocates this approach. It is premised on the assumption that there are in fact very few cases in which the plaintiff is willing join a forum defendant for the purpose of defeating removal but is unwilling to actually serve the defendant. This assumption is borne out by an earlier study conducted by the author of cases removed based upon the "bad faith" exception to the bar on removal of cases after one year.[373] The author examined 160 cases in which removal was based upon the

371. Although the forum defendant is often non-diverse, there are instances in which plaintiffs join non-diverse defendants who are not forum defendants.

372. *See* Nannery, *supra* note 7, at 581–83; *Hearing*, *supra* note 9, at 9 (statement of James E. Pfander, Owen L. Coon Professor of Law, Northwestern University Pritzker School of Law).

373. 28 U.S.C. § 1446(c)(1) provides that "[a] case may not be removed under subsection (b)(3) on the basis of jurisdiction conferred by section 1332 more than 1 year after commencement of the action, unless the district court finds that the plaintiff has acted in bad faith in order to prevent a defendant from removing the action."

"bad faith" exception.[374] 136 of those cases were remanded.[375] Of the 24 cases in which the district court found "bad faith," there were only two cases in which the plaintiff failed to serve the non-diverse defendant within one year and one in which the plaintiff served the non-diverse defendant seven months after commencement.[376] This suggests that there are very few cases in which a plaintiff names but does not serve a forum defendant. Moreover, now that plaintiffs know that failure to timely serve a forum defendant may be considered evidence of a plaintiff's "bad faith" attempt to prevent the defendant from removing, they are already incentivized to timely serve forum defendants. This approach is straightforward and will not generate excessive remand litigation. Nor is it likely to increase plaintiff's strategic joinder of forum defendants they do not intend to serve. Service is relatively easy and inexpensive to accomplish if a plaintiff is given sufficient time. Moreover, plaintiffs' failure to serve the forum defendant might expose the plaintiff to removal under existing law regarding fraudulent joinder or bad faith prevention of removal.

If Congress is insistent on attempting to thwart strategic joinder of a forum defendant whom the plaintiff does not intend to even serve, even though it does not appear to be a significant problem, it could amend Section 1446(b)(3) so as to clearly provide that a case becomes removable when the un-served non-diverse or un-served forum defendant is dismissed by court order based on the plaintiff's failure to timely serve the defendant.[377] The state court's determination that the plaintiff has failed to timely serve the defendant is a more finely-tuned proxy for this type of strategic joinder. Moreover, authorizing removal after dismissal of the forum defendant by the state court is less intrusive upon the state's ability to establish and enforce its own procedural rules regarding

374. *See* Percy, *Inefficient Litigation*, *supra* note 3, at 599.

375. *Id.* at 599–600.

376. *See id.* at 599. *See also* Massey v. 21st Century Centennial Ins. Co., No. 2:17-cv-01922, 2017 WL 3261419 (S.D. W. Va. July, 31, 2017); Heller v. Am. States Ins. Co., No. CV 15-9771 DMG (JPRx), 2016 WL 1170891 (C.D. Cal. Mar. 25, 2016); Lawson v. Parker Hannifin Corp., No. 4:13-cv-923-O, 2014 WL 1158880 (N.D. Tex. Mar. 20, 2014).

377. Section 1446(b)(3) provides:

> Except as provided in subsection (c), if the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.

28 U.S.C. 1446(b)(3) (2018).

service.[378] Unlike all of the other proposals, such an amendment would not only address plaintiff's strategic joinder of forum defendants, but also plaintiff's strategic joinder of non-diverse defendants.

E. Make the Forum Defendant Rule Jurisdictional

Another option would be to make the forum defendant rule jurisdictional, rather than procedural.[379] The Judiciary Act of 1789 declined to extend removal jurisdiction to diversity cases brought against a citizen of the forum state. Instead, it conferred removal jurisdiction to cases commenced by "a citizen of the state in which the suit is brought against a citizen of another state."[380] This alternative is similar to the approach that would simply delete the "and served" language from Section 1441(b)(2) in that both would prohibit removal of cases involving properly joined forum defendants.[381] Rendering the forum defendant rule jurisdictional, however, would mean that plaintiffs could move to remand at any time—motions to remand would not be limited to the thirty-day period after removal. In addition, district courts could sua sponte remand. Moreover, if the district court were to render a final judgment involving a forum defendant, it would be void due to the court's lack of subject matter jurisdiction. While such a change would clearly proscribe snap removal and enforce the forum defendant rule, such a change by Congress is not necessary if the "and served" language in Section 1441(b)(2) is simply deleted as suggested above.[382]

378. Such an amendment to the statute would also signify that the voluntary/involuntary rule does nor bar removal after the state court's dismissal for failure to timely serve the forum defendant. For a discussion of the voluntary/involuntary rule, see Percy, *Making a Federal Case of It*, *supra* note 3, at 207–11. The Fifth Circuit found removal proper after a state court in Texas found plaintiff's joinder of diverse defendants and non-diverse defendants improper under state procedural rules. The court rejected plaintiff's argument that the voluntary/involuntary rule barred removal. Crockett v. R.J. Reynolds Tobacco Co., 436 F.3d 529, 532–33 (5th Cir. 2006).

379. *See Hearing*, *supra* note 9, at 10 (statement of James E. Pfander, Owen L. Coon Professor of Law, Northwestern University Pritzker School of Law).

380. The Judiciary Act of 1789 Act of Sept. 24, 1789, ch. 20, § 12, 1 Stat. 73, 79 (1789).

381. *See* Nannery, *supra* note 7, at 582.

382. Lively v. Wild Oats Mkts., Inc., 456 F.3d 933, 940 (9th Cir. 2006) (treating the forum defendant rule as procedural allows the plaintiff to control whether the removed case remains in federal court because if the forum defendant rule were jurisdictional, the court could sua sponte remand the case regardless of the plaintiff's preference).

CONCLUSION

The author's study demonstrates that pre-service removal has become much more frequent in recent years in jurisdictions where the practice has been endorsed by an appellate court. As more courts approve the practice and as more defense counsel become acquainted with it, pre-service removal will only continue at an even greater rate. Given that pre-service removal clearly circumvents the forum defendant rule, raises federalism concerns, drains federal court resources, and encourages gamesmanship by the parties, Congress should amend Section 1441(b)(2) by deleting the "and served" language. This approach is preferable to the "snapback" approaches which would only serve to engrain pre-service removal in every jurisdiction in the country while also generating a large amount of remand litigation, given that the plaintiff may move to remand after service upon the forum defendant.

This approach is also preferable to the approach that would require service on a defendant prior to removal by that defendant because that approach fails to fully enforce the forum defendant rule. Removal would still be possible in cases where the plaintiff served the non-forum defendant prior to the forum defendant, either by mistake or necessity.

Eliminating pre-service removal by deleting the "and served" language is also preferable to the approach that would allow removal if the plaintiff fails to serve the forum defendant within 120 days of commencement in state court. That approach would only be advisable if there are a sufficient number of cases in which a plaintiff is willing to name a forum defendant to defeat removal but unwilling to serve a forum defendant within 120 days of commencement. Absent some demonstration that this practice is truly widespread, there is no pressing need to provide for removal in cases where the plaintiff's time period in which to serve the forum defendant has not expired under state rules or where the state court has extended plaintiff's time period for service based upon good cause. If the practice of joining but not serving forum defendants is not widespread, any amendment to the removal statutes that would continue to authorize pre-service removal, even in limited instances, would seem to be a solution in search of a problem.

APPENDIX OF CASES

Code Legend	
!!	**No Motion to Remand Filed**
oo	**No Motion to Remand Filed/Remanded by Consent/Forum D Served Prior to Removal**
%%	**No Motion to Remand Filed/Voluntarily Dismissed Without Prejudice (Shortly after filing – strategic)**
hh	**No Motion to Remand Filed/ Consent Remand – Lack of Diversity**
xx	**Motion to Remand Filed**
$$	**Court Denied Remand Motion Based Upon Literal Interpretation of Section 1441(b)(2)**
@@	**Court Granted Motion to Remand b/c Forum D Served Prior to Removal**
MM	**Motion Filed/ Consent Remand – Service on Forum D Prior to Removal**
kk	**Motion Filed/Consent Remand – Incomplete Diversity**
bb	**Motion to Remand Pending**
RR	**Case Successfully Removed Based Upon 1441(b)(2)**
**	**Case Involves Only Forum Defendant(s); No Non-Forum Defendants**
##	**State Court Complaint Explicitly Based Upon Law of the Forum State (at least partially)**
^^	**Not a Products Liability Case**
++	**Additional Basis for Removal**
&&	**Plaintiff moved to remand and alleged defendant evaded service of process**

September 2018		
1.	Notice of Removal of Defendant Michael Ferro, Mendoza v. Ferro, No. 2:18-cv-03807-TJS (E.D. Pa. Sept. 6, 2018). Plaintiff sued defendants in the Court of Common Pleas in Philadelphia County, Pennsylvania for injuries she sustained when she was struck by a tractor. The forum defendant removed based upon diversity, alleging that he had not been properly joined and served, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff moved to remand on October 9, 2018, arguing that the forum defendant had evaded service. The court denied the motion to remand by order dated January 24, 2019. By order dated February 19, 2019, the court transferred venue to the Middle District of North Carolina.	**xx** **$$** **^^** **&&** **RR**

2.	Notice of Removal, Vargas v. Bayer Corp., No. 2:18-cv-03946-CMR (E.D. Pa. Sept. 12, 2018). Plaintiffs, wife and husband, sued Bayer Corp. (an Indiana corporation with its principal place of business in New Jersey), Bayer Healthcare LLC (a citizen of Pennsylvania, Delaware, New Jersey, Germany, and the Netherlands), and other defendants in the Court of Common Pleas, Philadelphia County, Pennsylvania for injuries to the wife caused by Essure, a medical device that serves as a type of permanent birth control. Defendant Bayer Corp. removed based upon diversity, asserting that no forum defendant had been served. Plaintiffs moved to remand on September 19, 2018. The court denied the motion to remand by order entered November 1, 2018, finding that plaintiffs had not properly served a forum defendant prior to removal.	**xx** **$$** **RR**
3.	Notice of Removal, Williams v. Bayer Corp., No. 2:18-cv-03947-JD (E.D. Pa. Sept. 12, 2018). Plaintiff sued Bayer Corp. (an Indiana corporation with its principal place of business in New Jersey), Bayer Healthcare LLC (a citizen of Pennsylvania, Delaware, New Jersey, Germany, and the Netherlands), and other defendants in the Court of Common Pleas, Philadelphia County, Pennsylvania for injuries caused by Essure, a medical device that serves as a type of permanent birth control. Defendant Bayer Corp. removed based upon diversity, asserting that no forum defendant had been served. Plaintiff moved to remand on September 19, 2018. The court denied the motion to remand by order entered November 1, 2018, finding that plaintiff had not properly served a forum defendant prior to removal.	**xx** **$$** **RR**
4.	Notice of Removal, Tarver v. Bayer Corp., No. 2:18-cv-03948-JP (E.D. Pa. Sept. 12, 2018). Plaintiffs, wife and husband, sued Bayer Corp. (an Indiana corporation with its principal place of business in New Jersey), Bayer Healthcare LLC (a citizen of Pennsylvania, Delaware, New Jersey, Germany, and the Netherlands), and other defendants in the Court of Common Pleas, Philadelphia County, Pennsylvania for injuries to the wife caused by Essure, a medical device that serves as a type of permanent birth control. Defendant Bayer Corp. removed based upon diversity, asserting that no forum defendant had been served. Plaintiffs moved to remand on September 19, 2018. The court denied the motion to remand by order entered November 1, 2018, finding that plaintiffs had not properly served a forum defendant prior to removal.	**xx** **$$** **RR**

5.	Notice of Removal, Schleicher v. Bayer Corp., No. 2:18-cv-03949-NIQA (E.D. Pa. Sept. 12, 2018). Plaintiff sued Bayer Corp. (an Indiana corporation with its principal place of business in New Jersey), Bayer Healthcare LLC (a citizen of Pennsylvania, Delaware, New Jersey, Germany, and the Netherlands), and other defendants in the Court of Common Pleas, Philadelphia County, Pennsylvania for injuries caused by Essure, a medical device that serves as a type of permanent birth control. Defendant Bayer Corp. removed based upon diversity, asserting that no forum defendant had been served. Plaintiff moved to remand on September 19, 2018. The court denied the motion to remand by order entered November 1, 2018, finding that plaintiff had not properly served a forum defendant prior to removal.	**xx** **$$** **RR**
6.	Notice of Removal, Appugliese v. Bayer Corp., No. 2:18-cv-03950-JHS (E.D. Pa. Sept. 12, 2018). Plaintiffs, wife and husband, sued Bayer Corp. (an Indiana corporation with its principal place of business in New Jersey), Bayer Healthcare LLC (a citizen of Pennsylvania, Delaware, New Jersey, Germany, and the Netherlands), and other defendants in the Court of Common Pleas, Philadelphia County, Pennsylvania for injuries to the wife caused by Essure, a medical device that serves as a type of permanent birth control. Defendant Bayer Corp. removed based upon diversity, asserting that no forum defendant had been served. Plaintiffs moved to remand on September 19, 2018. The court denied the motion to remand by order entered November 1, 2018, finding that plaintiffs had not properly served a forum defendant prior to removal.	**xx** **$$** **RR**
7.	Notice of Removal, Taylor v. Bayer Corp., No. 2:18-cv-03951-MSG (E.D. Pa. Sept. 12, 2018). Plaintiff sued Bayer Corp. (an Indiana corporation with its principal place of business in New Jersey), Bayer Healthcare LLC (a citizen of Pennsylvania, Delaware, New Jersey, Germany, and the Netherlands), and other defendants in the Court of Common Pleas, Philadelphia County, Pennsylvania for injuries caused by Essure, a medical device that serves as a type of permanent birth control. Defendant Bayer Corp. removed, based upon diversity, asserting that no forum defendant had been served. Plaintiff moved to remand on September 19, 2018. The court denied the motion to remand by order entered November 1, 2018, finding that plaintiff had not properly served a forum defendant prior to removal.	**xx** **$$** **RR**

8.	Notice of Removal, Carswell v. Bayer Corp., No. 2:18-cv-03952-MMB (E.D. Pa. Sept. 12, 2018). Plaintiffs, wife and husband, sued Bayer Corp. (an Indiana corporation with its principal place of business in New Jersey), Bayer Healthcare LLC (a citizen of Pennsylvania, Delaware, New Jersey, Germany, and the Netherlands), and other defendants in the Court of Common Pleas, Philadelphia, Pennsylvania for injuries to the wife caused by Essure, a medical device that serves as a type of permanent birth control. Defendant Bayer Corp. removed based upon diversity, asserting that no forum defendant had been served. Plaintiffs moved to remand on September 19, 2018. The court denied the motion to remand by order entered November 1, 2018, finding that plaintiffs had not properly served a forum defendant prior to removal.	**xx** **$$** **RR**
9.	Notice of Removal, Tyner v. Bayer Corp., No. 2:18-cv-03957-JS (E.D. Pa. Sept. 12, 2018). Plaintiff sued Bayer Corp. (an Indiana corporation with its principal place of business in New Jersey), Bayer Healthcare LLC (a citizen of Pennsylvania, Delaware, New Jersey, Germany, and the Netherlands), and other defendants in the Court of Common Pleas, Philadelphia County, Pennsylvania for injuries caused by Essure, a medical device that serves as a type of permanent birth control. Defendant Bayer Corp. removed based upon diversity, asserting that no forum defendant had been served. Plaintiff moved to remand on September 19, 2018. The court denied the motion to remand by order entered November 1, 2018, finding that plaintiff had not properly served a forum defendant prior to removal.	**xx** **$$** **RR**
10.	Notice of Removal of Defendant Imerys Talc America, Inc., Manz v. Brenntag of N. Am., No. 3:18-cv-14083-PGS-TJB (D.N.J. Sept. 20, 2018). Plaintiff sued numerous defendants for injuries sustained as the result of using Johnson & Johnson baby powder in New Jersey Superior Court, Middlesex County. Several defendants, including Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), are citizens of New Jersey. Plaintiff cited New Jersey product liability law as the basis for some claims. A non-forum defendant removed based upon diversity prior to service on any defendants citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff moved to remand on October 18, 2018. The court denied plaintiff's motion to remand by order entered June 20, 2019.	**xx** **$$** **RR** **##**

11.	Notice of Removal, Est. of Berland v. Berland Ins. Tr., No. 1:18-cv-01493-MN (D. Del. Sept. 26, 2018). Plaintiff Estate sued numerous defendants (all citizens of Delaware) in the Delaware Superior Court seeking recovery of insurance proceeds based upon a lack of insurable interest or unjust enrichment. Plaintiffs cited Delaware law. Defendants removed based upon diversity, asserting that none had been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff did not move to remand. The case was dismissed with prejudice by stipulation entered May 4, 2020.	**!!** **RR** ****** **##** **^^**
	October 2018	
12.	Notice of Removal, Armenta v. Bayer Corp., No. 2:18-cv-04249-PBT (E.D. Pa. Oct. 2, 2018). Plaintiff, a citizen of California, sued Bayer Corp. (an Indiana corporation with its principal place of business in New Jersey), Bayer Healthcare LLC (a citizen of Pennsylvania, Delaware, New Jersey, Germany, and the Netherlands), and other defendants in state court in Pennsylvania. Plaintiff alleged that the Essure birth control device manufactured and supplied by defendants was defective and caused her injury. Plaintiff asserted various negligence and breach of warranty claims. Defendants removed the case based upon diversity before service on any forum defendant. By order entered October 10, 2018, the case was consolidated with other similar cases against Bayer for purposes of discovery and pre-trial motions. *See generally* McLaughlin v. Bayer Corp., No. 14-07315 (E.D. Pa. argued Feb. 11, 2019). No motion to remand was filed.	**!!** **RR**
13.	Notice of Removal, Ramos v. Bayer Corp., No. 2:18-CV-04250-GAM (E.D. Pa. Oct. 2, 2018). Plaintiffs, citizens of Virginia, sued Bayer Corp. (an Indiana corporation with its principal place of business in New Jersey), Bayer Healthcare LLC (a citizen of Pennsylvania, Delaware, New Jersey, Germany, and the Netherlands), and other defendants in state court in Pennsylvania. Plaintiffs alleged that the Essure birth control device manufactured and supplied by defendants was defective and caused them injury. Plaintiff asserted various negligence and breach of warranty claims. Defendants removed the case based upon diversity before service on any forum defendant. No motion to remand was filed. By order entered October 10, 2018, the case was consolidated with other similar cases against Bayer for purposes of discovery and pre-trial motions. *See generally* McLaughlin v. Bayer Corp., No. 14-07315 (E.D. Pa. argued Feb. 11, 2019).	**!!** **RR**

14.	Notice of Removal, Davis v. Bayer Corp., No. 2:18-cv-04251-TJS (E.D. Pa. Oct. 2, 2018). Plaintiffs, citizens of Georgia, sued Bayer Corp. (an Indiana corporation with its principal place of business in New Jersey), Bayer Healthcare LLC (a citizen of Pennsylvania, Delaware, New Jersey, Germany, and the Netherlands), and other defendants in state court in Pennsylvania. Plaintiffs alleged that the Essure birth control device manufactured and supplied by defendants was defective and caused injury to wife and loss of consortium to husband. Plaintiffs asserted various negligence and breach of warranty claims. Defendants removed the case based upon diversity before service on any forum defendant. By order entered October 10, 2018, the case was consolidated with other similar cases against Bayer for purposes of discovery and pre-trial motions. *See generally* McLaughlin v. Bayer Corp., No. 14-07315 (E.D. Pa. argued Feb. 11, 2019). The docket does not reflect that a motion to remand was filed.	**!!** **RR**
15.	Notice of Removal of Defendant Revlon, Inc., Anderton v. 3M Co., No. 3:18-cv-14949-MAS-LHG (D.N.J. Oct. 12, 2018). Plaintiffs sued 3M and numerous other defendants in the Superior Court of New Jersey, Middlesex County. Several of the defendants are citizens of New Jersey, including Brenntag Specialties, Inc. (principal place of business in New Jersey), Conopco, Inc. (principal place of business in New Jersey), and Johnson & Johnson (New Jersey corporation with its principal place of business in New Jersey). Plaintiffs, husband and wife, alleged that husband suffered personal injury and developed mesothelioma as a result of Johnson's Baby Powder. Defendant Revlon, Inc. removed the case based upon diversity, representing that no defendants had been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiffs moved to remand on October 16, 2018. The case was remanded by order entered May 7, 2019 because contrary to Revlon, Inc.'s representation, some forum defendants had been served prior to removal.	**xx** **@@**

16.	Notice of Removal, Gerold v. Alles, No. 2:18-cv-15405-JMV-JBC (D.N.J. Oct. 29, 2018). Plaintiff, a citizen of New York, filed a derivative shareholder action in the Superior Court of New Jersey, Union County, against numerous individuals and named Celgene Corp., a Delaware corporation with its principal place of business in New Jersey, as a nominal defendant. The individual defendants removed based upon diversity, arguing that even though Defendant Celgene Corp. was a citizen of New Jersey, the forum defendant rule did not bar removal because a corporation sued in a shareholder derivative action is aligned with the plaintiff's interest and should not be considered a party defendant for purposes of the forum defendant rule and because Celgene. Alternatively, defendants cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018) and asserted that Celgene had not been served. There was no motion to remand. The case was dismissed without prejudice by stipulated order on January 6, 2020 because the plaintiff lacked standing due to the acquisition of the corporate defendant.	**!!** **^^** **++** **RR**
17.	Notice of Removal, Talavera v. Bayer Corp., No. 2:18-cv-04686-WB (E.D. Pa. Oct. 30, 2018). Plaintiff, a citizen of California, sued Bayer Corp. (an Indiana corporation with its principal place of business in New Jersey), Bayer Healthcare LLC (a citizen of Pennsylvania, Delaware, New Jersey, Germany, and the Netherlands), and other defendants in state court in Pennsylvania. Plaintiff alleged that the Essure birth control device manufactured and supplied by defendants was defective and caused her injury. Plaintiff asserted various negligence and breach of warranty claims. Defendants removed the case based upon diversity before service on any forum defendant. There was no motion to remand.	**!!** **RR**
November 2018		
18.	Notice of Removal and Copies of All Process and Pleadings in State Court, Braden v. Ethicon, Inc., No. 3:18-cv-15652-FLW-DEA (D.N.J. Nov. 2, 2018). Plaintiff, a citizen of Alabama, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh system that caused her physical injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). No motion to remand was filed within 30 days of removal. On December 20, 2018, plaintiff voluntarily dismissed the complaint without prejudice.	**!!** **%%** **RR** ****** **##**

19.	Notice of Removal, Berry v. Bayer Corp., No. 2:18-cv-04768-PD (E.D. Pa. Nov. 2, 2018). Twenty-four female plaintiffs sued Bayer Corp. (an Indiana corporation with its principal place of business in New Jersey, Bayer HealthCare LLC (a citizen of Delaware, Pennsylvania, New Jersey, Germany, and the Netherlands), Bayer Essure Inc. (a Delaware corporation with its principal place of business in New Jersey), Bayer HealthCare Pharmaceuticals, Inc. (a Delaware corporation with its principal place of business in New Jersey) and other defendants in state court in Pennsylvania. Plaintiffs alleged that the Essure birth control device manufactured and supplied by defendants was defective and caused them injury. Plaintiffs asserted various negligence and breach of warranty claims. Defendants removed the case based upon diversity before service on any forum defendant. Defendants argued that the two non-diverse plaintiffs were fraudulently misjoined. The docket does not reflect any motion to remand. By order entered August 19, 2019, the court consolidated this case with other similar cases against Bayer for purposes of discovery and pre-trial motions (McLaughlin v. Bayer Corp., No. 14-07315 (E.D. Pa. argued Feb. 11, 2019)). By order entered August 20, 2019, the court ordered that plaintiffs' counsel file an amended complaint on behalf of only the first-named plaintiff (Berry) and authorizing plaintiffs' counsel to file separate complaints for the remaining twenty-one diverse plaintiffs. Berry filed an amended complaint on September 16, 2019. One of the non-diverse plaintiffs dismissed her claim. The court remanded the claim asserted by the other non-diverse plaintiff, based upon misjoinder.	**!!** **RR**
	Cases 20–122 against Merck: In each of these 103 individual cases, the plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. The plaintiffs alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed, asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. The court denied plaintiffs' motions to remand by order dated January 10, 2019. *See, e.g.*, Notice of Removal, Anderson v. Merck & Co., No. 3:18-cv-15844-TJB-PGS (D.N.J. Nov. 8, 2018). By order entered February 5, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-2848-HB (E.D. Pa. filed Apr. 20, 2018).	**xx** **$$** **RR**
20.	Notice of Removal, Anderson v. Merck & Co., No. 3:18-cv-15844-TJB-PGS (D.N.J. Nov. 8, 2018).	
21.	Notice of Removal, Birmantas v. Merck & Co., No. 3:18-cv-15845 (D.N.J. Nov. 8, 2018).	
22.	Notice of Removal, Wortman v. Merck & Co., No. 3:18-cv-15846 (D.N.J. Nov. 8, 2018).	

23.	Notice of Removal, Lucas v. Merck & Co., No. 3:18-cv-15847 (D.N.J. Nov. 8, 2018).	
24.	Notice of Removal, Braginton v. Merck & Co., No. 3:18-cv-15850 (D.N.J. Nov. 8, 2018).	
25.	Notice of Removal, Browning v. Merck & Co., No. 3:18-cv-15852 (D.N.J. Nov. 8, 2018).	
26.	Notice of Removal, Alvarez v. Merck & Co., No. 3:18-cv-15853 (D.N.J. Nov. 8, 2018).	
27.	Notice of Removal, Waldroup v. Merck & Co., No. 3:18-cv-15854 (D.N.J. Nov. 8, 2018).	
28.	Notice of Removal, Blocher v. Merck & Co., No. 3:18-cv-15858 (D. N.J. Nov. 8, 2018).	
29.	Notice of Removal, VanHoose v. Merck & Co., No. 3:18-cv-15860 (D.N.J. Nov. 8, 2018).	
30.	Notice of Removal, Smithson v. Merck & Co., No. 3:18-cv-15865 (D.N.J. Nov. 8, 2018).	
31.	Notice of Removal, Cain v. Merck & Co., No. 3:18-cv-15866 (D.N.J. Nov. 8, 2018).	
32.	Notice of Removal, Nichols v. Merck & Co., No. 3:18-cv-15867 (D.N.J. Nov. 8, 2018).	
33.	Notice of Removal, Cardine v. Merck & Co., No. 3:18-cv-15868 (D.N.J. Nov. 8, 2018).	
34.	Notice of Removal, Doherty v. Merck & Co., No. 3:18-cv-15871 (D.N.J. Nov. 8, 2018).	
35.	Notice of Removal, Showalter v. Merck & Co., No. 3:18-cv-15872 (D.N.J. Nov. 8, 2018).	
36.	Notice of Removal, Cartwright v. Merck & Co., No. 3:18-cv-15873 (D.N.J. Nov. 8, 2018).	
37.	Notice of Removal, Thomas v. Merck & Co., No. 3:18-cv-15874 (D.N.J. Nov. 8, 2018).	
38.	Notice of Removal, Peterson v. Merck & Co., No. 3:18-cv-15875 (D.N.J. Nov. 8, 2018).	
39.	Notice of Removal, Case v. Merck & Co., No. 3:18-cv-15876 (D.N.J. Nov. 8, 2018).	
40.	Notice of Removal, Campbell v. Merck & Co., No. 3:18-cv-15878 (D.N.J. Nov. 8, 2018).	
41.	Notice of Removal, Pendleton v. Merck & Co., No. 3:18-cv-15879 (D.N.J. Nov. 8, 2018).	
42.	Notice of Removal, Comeau v. Merck & Co., No. 3:18-cv-15880 (D.N.J. Nov. 8, 2018).	
43.	Notice of Removal, Cooper v. Merck & Co., No. 3:18-cv-15882 (D.N.J. Nov. 8, 2018).	

44.	Notice of Removal, Delacruz v. Merck & Co., No. 3:18-cv-15883 (D.N.J. Nov. 8, 2018).	
45.	Notice of Removal, Palermo v. Merck & Co., No. 3:18-cv-15884 (D.N.J. Nov. 8, 2018).	
46.	Notice of Removal, Clausell v. Merck & Co., No. 3:18-cv-15885 (D.N.J. Nov. 8, 2018).	
47.	Notice of Removal, Michael v. Merck & Co., No. 3:18-cv-15886 (D.N.J. Nov. 8, 2018).	
48.	Notice of Removal, O'Shea v. Merck & Co., No. 3:18-cv-15888 (D.N.J. Nov. 8, 2018).	
49.	Notice of Removal, Brown v. Merck & Co., No. 3:18-cv-15890 (D.N.J. Nov. 8, 2018).	
50.	Notice of Removal, DeLustro v. Merck & Co., No. 3:18-cv-15892 (D.N.J. Nov. 8, 2018).	
51.	Notice of Removal, Mulhair v. Merck & Co., No. 3:18-cv-15894 (D.N.J. Nov. 8, 2018).	
52.	Notice of Removal, Henton v. Merck & Co., No. 3:18-cv-15897 (D.N.J. Nov. 8, 2018).	
53.	Notice of Removal, Kinchen v. Merck & Co., No. 3:18-cv-15899 (D.N.J. Nov. 8, 2018).	
54.	Notice of Removal, Knapp v. Merck & Co., No. 3:18-cv-15900 (D.N.J. Nov. 8, 2018).	
55.	Notice of Removal, DeVeney-Hicks v. Merck & Co., No. 3:18-cv-15901 (D.N.J. Nov. 8, 2018).	
56.	Notice of Removal, Marshall v. Merck & Co., No. 3:18-cv-15902 (D.N.J. Nov. 8, 2018).	
57.	Notice of Removal, Estridge v. Merck & Co., No. 3:18-cv-15904 (D.N.J. Nov. 8, 2018).	
58.	Notice of Removal, Grant v. Merck & Co., No. 3:18-cv-15906 (D.N.J. Nov. 8, 2018).	
59.	Notice of Removal, Harper v. Merck & Co., No. 3:18-cv-15908 (D.N.J. Nov. 8, 2018).	
60.	Notice of Removal, Dillon v. Merck & Co., No. 3:18-cv-15909 (D.N.J. Nov. 8, 2018).	
61.	Notice of Removal, Moore v. Merck & Co., No. 3:18-cv-15910 (D.N.J. Nov. 8, 2018).	
62.	Notice of Removal, Grimes v. Merck & Co., No. 3:18-cv-15911 (D.N.J. Nov. 8, 2018).	
63.	Notice of Removal, Dolenic v. Merck & Co., No. 3:18-cv-15912 (D.N.J. Nov. 8, 2018).	
64.	Notice of Removal, Hoirup v. Merck & Co., No. 3:18-cv-15913 (D.N.J. Nov. 8, 2018).	

65.	Notice of Removal, Dupuis v. Merck & Co., No. 3:18-cv-15914 (D.N.J. Nov. 8, 2018).	
66.	Notice of Removal, Miller v. Merck & Co., No. 3:18-cv-15915 (D.N.J. Nov. 8, 2018).	
67.	Notice of Removal, Guse v. Merck & Co., No. 3:18-cv-15917 (D.N.J. Nov. 8, 2018).	
68.	Notice of Removal, Friend v. Merck & Co., No. 3:18-cv-15918 (D.N.J. Nov. 8, 2018).	
69.	Notice of Removal, Edwards v. Merck & Co., No. 3:18-cv-15919 (D.N.J. Nov. 8, 2018).	
70.	Notice of Removal, Fritts v. Merck & Co., No. 3:18-cv-15920 (D.N.J. Nov. 8, 2018).	
71.	Notice of Removal, Gonzalez v. Merck & Co., No. 3:18-cv-15921 (D.N.J. Nov. 8, 2018).	
72.	Notice of Removal, Laird v. Merck & Co., No. 3:18-cv-15923 (D.N.J. Nov. 8, 2018).	
73.	Notice of Removal, Brougher v. Merck & Co., No. 3:18-cv-15924 (D.N.J. Nov. 8, 2018).	
74.	Notice of Removal, Burrell v. Merck & Co., No. 3:18-cv-15925 (D.N.J. Nov. 8, 2018).	
75.	Notice of Removal, Nelson v. Merck & Co., No. 3:18-cv-15927 (D.N.J. Nov. 8, 2018).	
76.	Notice of Removal, Hoeper v. Merck & Co., No. 3:18-cv-15928 (D.N.J. Nov. 8, 2018).	
77.	Notice of Removal, Cook v. Merck & Co., No. 3:18-cv-15930 (D.N.J. Nov. 8, 2018).	
78.	Notice of Removal, Wienick v. Merck & Co., No. 3:18-cv-15931 (D.N.J. Nov. 8, 2018).	
79.	Notice of Removal, Humphrey v. Merck & Co., No. 3:18-cv-15932 (D.N.J. Nov. 8, 2018).	
80.	Notice of Removal, Bruneau v. Merck & Co., No. 3:18-cv-15933 (D.N.J. Nov. 8, 2018).	
81.	Notice of Removal, Loud v. Merck & Co., No. 3:18-cv-15934 (D.N.J. Nov. 8, 2018).	
82.	Notice of Removal, Burch v. Merck & Co., No. 3:18-cv-15935 (D.N.J. Nov. 8, 2018).	
83.	Notice of Removal, Connor v. Merck & Co., No. 3:18-cv-15936 (D.N.J. Nov. 8, 2018).	
84.	Notice of Removal, Johnson v. Merck & Co., No. 3:18-cv-15937 (D.N.J. Nov. 8, 2018).	
85.	Notice of Removal, Mello v. Merck & Co., No. 3:18-cv-15938 (D.N.J. Nov. 8, 2018).	

86.	Notice of Removal, Androde v. Merck & Co., No. 3:18-cv-15939 (D.N.J. Nov. 8, 2018).	
87.	Notice of Removal, Kostenbader v. Merck & Co., No. 3:18-cv-15940 (D.N.J. Nov. 8, 2018).	
88.	Notice of Removal, Jones v. Merck & Co., No. 3:18-cv-15941 (D.N.J. Nov. 8, 2018).	
89.	Notice of Removal, Armstead v. Merck & Co., No. 3:18-cv-15942 (D.N.J. Nov. 8, 2018).	
90.	Notice of Removal, Miller v. Merck & Co., No. 3:18-cv-15943 (D.N.J. Nov. 8, 2018).	
91.	Notice of Removal, Lambright v. Merck & Co., No. 3:18-cv-15944 (D.N.J. Nov. 8, 2018).	
92.	Notice of Removal, Baker v. Merck & Co., No. 3:18-cv-15945 (D.N.J. Nov. 8, 2018).	
93.	Notice of Removal, Langer v. Merck & Co., No. 3:18-cv-15946 (D.N.J. Nov. 8, 2018).	
94.	Notice of Removal, Allbrandt v. Merck & Co., No. 3:18-cv-15948 (D.N.J. Nov. 8, 2018).	
95.	Notice of Removal, Williams v. Merck & Co., No. 3:18-cv-15949 (D.N.J. Nov. 8, 2018).	
96.	Notice of Removal, McDaniel v. Merck & Co., No. 3:18-cv-15950 (D.N.J. Nov. 8, 2018).	
97.	Notice of Removal, Breneman v. Merck & Co., No. 3:18-cv-15951 (D.N.J. Nov. 8, 2018).	
98.	Notice of Removal, Miller v. Merck & Co., No. 3:18-cv-15952 (D.N.J. Nov. 8, 2018).	
99.	Notice of Removal, Niesporek v. Merck & Co., No. 3:18-cv-15953 (D.N.J. Nov. 8, 2018).	
100.	Notice of Removal, Frisbie v. Merck & Co., No. 3:18-cv-15954 (D.N.J. Nov. 8, 2018).	
101.	Notice of Removal, Morse v. Merck & Co., No. 3:18-cv-15955 (D.N.J. Nov. 8, 2018).	
102.	Notice of Removal, Butler v. Merck & Co., No. 3:18-cv-15956 (D.N.J. Nov. 8, 2018).	
103.	Notice of Removal, Otte v. Merck & Co., No. 3:18-cv-15957 (D.N.J. Nov. 8, 2018).	
104.	Notice of Removal, Nelson v. Merck & Co., No. 3:18-cv-15958 (D.N.J. Nov. 8, 2018).	
105.	Notice of Removal, Cole v. Merck & Co., No. 3:18-cv-15959 (D.N.J. Nov. 8, 2018).	
106.	Notice of Removal, Paribello v. Merck & Co., No. 3:18-cv-15961 (D.N.J. Nov. 8, 2018).	

107.	Notice of Removal, Oliva v. Merck & Co., No. 3:18-cv-15962 (D.N.J. Nov. 8, 2018).	
108.	Notice of Removal, Edmonds v. Merck & Co., No. 3:18-cv-15963 (D.N.J. Nov. 8, 2018).	
109.	Notice of Removal, Wylie v. Merck & Co., No. 3:18-cv-15964 (D.N.J. Nov. 8, 2018).	
110.	Notice of Removal, Gleason v. Merck & Co., No. 3:18-cv-15965 (D.N.J. Nov. 8, 2018).	
111.	Notice of Removal, Perkins v. Merck & Co., No. 3:18-cv-15966 (D.N.J. Nov. 8, 2018.	
112.	Notice of Removal, Linn v. Merck & Co., No. 3:18-cv-15968 (D.N.J. Nov. 8, 2018).	
113.	Notice of Removal, Carver v. Merck & Co., No. 3:18-cv-15969 (D.N.J. Nov. 8, 2018).	
114.	Notice of Removal, Pillow v. Merck & Co., No. 3:18-cv-15970 (D.N.J. Nov. 8, 2018).	
115.	Notice of Removal, Eversole v. Merck & Co., No. 3:18-cv-15971 (D.N.J. Nov. 8, 2018).	
116.	Notice of Removal, McCullough v. Merck & Co., No. 3:18-cv-15973 (D.N.J. Nov. 8, 2018).	
117.	Notice of Removal, Redden v. Merck & Co., No. 3:18-cv-15974 (D.N.J. Nov. 8, 2018).	
118.	Notice of Removal, Reed v. Merck & Co., No. 3:18-cv-15976 (D.N.J. Nov. 8, 2018).	
119.	Notice of Removal, Meyers v. Merck & Co., No. 3:18-cv-15977 (D.N.J. Nov. 8, 2018).	
120.	Notice of Removal, Rossi v. Merck & Co., No. 3:18-cv-15979 (D.N.J. Nov. 8, 2018).	
121.	Notice of Removal, Rubik v. Merck & Co., No. 3:18-cv-15980 (D.N.J. Nov. 8, 2018).	
122.	Notice of Removal, Sanchez v. Merck & Co., No. 3:18-cv-15981 (D.N.J. Nov. 8, 2018).	

123.	Notice of Removal, Breitner v. Merck & Co., No. 3:18-cv-15982-PGS-TJB (D.N.J. Nov. 8, 2018). Eighty-nine plaintiffs joined together to sue Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiffs alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Plaintiffs brought common law claims and statutory claims based upon New Jersey law. Merck removed, asserting that there was complete diversity because the non-diverse plaintiffs who are citizens of New Jersey were fraudulently misjoined and further asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. The court denied plaintiffs' motion to remand by order dated January 24, 2019. It held that the five non-diverse plaintiffs had been fraudulently misjoined. The court remanded the claims asserted by the five non-diverse plaintiffs to state court. With respect to the remaining eighty-four plaintiffs, the court severed all claims and allowed the first-named plaintiff (Breitner) to proceed in the action and directed the remaining eighty-three plaintiffs to refile individual complaints. By order entered February 7, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa.).	**xx** **$$** **RR** **##**
124.	Notice of Removal, Metz v. Merck & Co., No. 3:18-cv-15983-PGS-TJB (D.N.J. Nov. 8, 2018). One hundred twenty-seven plaintiffs joined together to sue Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiffs alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Plaintiffs brought common law claims and statutory claims based upon New Jersey law. Merck removed, asserting that there was complete diversity because the non-diverse plaintiffs who are citizens of New Jersey were fraudulently misjoined and further asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. The court denied plaintiffs' motion to remand by order dated January 24, 2019. It held that the non-diverse plaintiffs had been fraudulently misjoined. The court remanded the claims asserted by the non-diverse plaintiffs to state court. With respect to the remaining plaintiffs, the court severed all claims and allowed the first-named plaintiff (Metz) to proceed in the action and directed the remaining plaintiffs to refile individual complaints. By order entered February 7, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa.).	**xx** **$$** **RR** **##**

125.	Notice of Removal, Opatrny v. Merck & Co., No. 3:18-cv-15984-PGS-TJB (D.N.J. Nov. 8, 2018). One hundred two plaintiffs joined together to sue Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiffs alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Plaintiffs brought common law claims and statutory claims based upon New Jersey law. Merck removed, asserting that there was complete diversity because the non-diverse plaintiffs who are citizens of New Jersey were fraudulently misjoined and further asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. The court denied plaintiffs' motion to remand by order dated January 24, 2019. It held that the four non-diverse plaintiffs had been fraudulently misjoined. The court remanded the claims asserted by the non-diverse plaintiffs to state court. With respect to the remaining ninety-eight plaintiffs, the court severed all claims and allowed the first-named plaintiff (Opatrny) to proceed in the action and directed the remaining plaintiffs to refile individual complaints. By order entered February 7, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa.).	**xx** **$$** **RR** **##**
126.	Notice of Removal, Sherman v. Merck & Co., No. 3:18-cv-15985-PGS-TJB (D.N.J. Nov. 8, 2018). One hundred thirty-four plaintiffs joined together to sue Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiffs alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Plaintiffs brought common law claims and statutory claims based upon New Jersey law. Merck removed, asserted that there was complete diversity because the non-diverse plaintiffs who are citizens of New Jersey were fraudulently misjoined and further asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. The court denied plaintiffs' motion to remand by order dated January 24, 2019. It held that the three non-diverse plaintiffs had been fraudulently misjoined. The court remanded the claims asserted by the three non-diverse plaintiffs to state court. With respect to the remaining plaintiffs, the court severed all claims and allowed the first-named plaintiff (Sherman) to proceed in the action and directed the remaining plaintiffs to refile individual complaints. By order entered February 7, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa.).	**xx** **$$** **RR** **##**

127.	Notice of Removal and Copies of All Process and Pleadings in State Court, Oglesby v. Ethicon, Inc., No. 3:18-cv-16079-FLW-DEA (D.N.J. Nov. 13, 2018). Plaintiff, a citizen of Pennsylvania, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective multi-layered hernia mesh product that caused her physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and Texas law. (Plaintiff's surgery occurred in Texas). Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The docket does not reflect a motion to remand. By order entered February 19, 2020, the case was consolidated with other similar cases for purposes of discovery.	**!!** **RR** ****** **##**
128.	Notice of Removal and Copies of All Process and Pleadings in State Court, Kiger v. Ethicon, Inc., No. 3:18-cv-16801-FLW-DEA (D.N.J. Nov. 13, 2018). Plaintiff, a citizen of North Carolina, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective multi-layered hernia mesh product that caused him physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and North Carolina law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The docket does not reflect a motion to remand. By order entered February 19, 2020, the case was consolidated with other similar cases for purposes of discovery.	**!!** **RR** ****** **##**
129.	Notice of Removal and Copies of All Process and Pleadings in State Court, Piper v. Ethicon, Inc., No. 3:18-cv-16084-FLW-DEA (D.N.J. Nov. 13, 2018). Plaintiff, a citizen of Michigan, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective surgical mesh product that caused him physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and Michigan law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The docket does not reflect a motion to remand. By order entered February 19, 2020, the case was consolidated with other similar cases for purposes of discovery.	**!!** **RR** ****** **##**

130.	Notice of Removal and Copies of All Process and Pleadings in State Court, Munoz v. Ethicon, Inc., No. 3:18-cv-16111-FLW-DEA (D.N.J. Nov. 13, 2018). Plaintiff, a citizen of Louisiana, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh system that caused her physical injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Defendants removed based on diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The docket does not reflect a motion to remand. By order entered February 19, 2020, the case was consolidated with other cases pending in the district for purposes of discovery.	**!!** **RR** ****** **##**
131.	Notice of Removal and Copies of All Process and Pleadings in State Court, Coleman v. Ethicon, Inc., No. 3:18-cv-16156-FLW-DEA (D.N.J. Nov. 14, 2018). Plaintiff, a citizen of Virginia, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh system that caused him physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and Virginia law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The docket does not reflect a motion to remand. By order entered February 19, 2020, the case was consolidated with other similar cases for purposes of discovery.	**!!** **RR** ****** **##**
132.	Notice of Removal and Copies of All Process and Pleadings in State Court, Kohler v. Ethicon, Inc., No. 3:18-cv-16649-FLW-DEA (D.N.J. Nov. 29, 2018). Plaintiffs, citizens of Georgia, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiffs alleged that defendants manufactured and supplied a defective hernia mesh patch that caused physical injury to husband and loss of consortium to wife. Plaintiffs asserted products liability claims pursuant to New Jersey and Georgia law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By letter dated December 7, 2018, defendants submitted a proposed consent remand order to the court. By consent order entered December 10, 2018, the case was remanded to state court (presumably because a forum defendant had been served prior to removal).	**!!** **oo** ****** **##**

133.	Notice of Removal and Copies of All Process and Pleadings in State Court, Espino v. Ethicon, Inc., No. 3:18-cv-16651-FLW-DEA (D.N.J. Nov. 29, 2018). Plaintiff, a citizen of California, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh patch that caused him physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and California law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By consent order entered December 6, 2018, the case was remanded to state court (presumably because a forum defendant had been served prior to removal).	**!!** **oo** ****** **##**
134.	Notice of Removal and Copies of All Process and Pleadings in State Court, Martinez v. Ethicon, Inc., No. 3:18-cv-16653-FLW-DEA (D.N.J. Nov. 29, 2018). Plaintiffs, citizens of Texas, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiffs alleged that defendants manufactured and supplied a defective hernia mesh patch that caused physical injury to husband and loss of consortium to wife. Plaintiffs asserted products liability claims pursuant to New Jersey and Texas law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By consent order entered January 3, 2019, the case was remanded to state court (presumably because a forum defendant had been served prior to removal).	**!!** **oo** ****** **##**

135.	Notice of Removal and Copies of All Process and Pleadings in State Court, Gilbert v. Ethicon, Inc., No. 3:18-cv-16672-FLW-DEA (D.N.J. Nov. 30, 2018). Plaintiff, a citizen of Washington, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective layered hernia mesh patch that caused her physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and Washington law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On December 14, 2018, Plaintiff moved to remand arguing that removal was not proper because defendants were served before they completed the removal process. (Defendants had not filed the notice of removal with the state court clerk). In numerous cases brought against Ethicon and J&J (including this one), the court entered an order dated February 19, 2019, administratively terminating the motions to remand without prejudice and directing the parties to submit briefs in representative cases. The court ruled on the motions to remand in the representative cases in *Dutton v. Ethicon, Inc*., 423 F. Supp. 3d 81 (D.N.J. 2019). The court held that all three steps of removal (filing the notice of removal in federal district court, providing written notice to all adverse parties, and filing a copy of the notice with the state court clerk) must be completed before service upon the defendants. *Id.* at 87–88. This case was remanded by order dated October 18, 2019.	**xx** **@@** ****** **##**
136.	Notice of Removal and Copies of All Process and Pleadings in State Court, Eiben v. Ethicon, Inc., No. 3:18-cv-16675-FLW-DEA (D.N.J. Nov. 30, 2018). Plaintiffs, citizens of Florida, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiffs alleged that defendants manufactured and supplied a defective hernia mesh patch that caused physical injury to husband and loss of consortium to wife. Plaintiffs asserted products liability claims pursuant to New Jersey and Florida law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By letter dated December 7, 2018, defendants submitted a proposed consent remand order to the court. By consent order entered January 3, 2019, the case was remanded to state court (presumably because a forum defendant had been served prior to removal).	**!!** **oo** ****** **##**

137.	Notice of Removal and Copies of All Process and Pleadings in State Court, Bednarcyk v. Ethicon, Inc., No. 3:18-cv-16677-FLW-DEA (D.N.J. Nov. 30, 2018). Plaintiffs, citizens of North Carolina, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh patch that caused physical injury to wife and loss of consortium to husband. Plaintiffs asserted products liability claims pursuant to New Jersey and North Carolina law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By letter dated December 7, 2018, defendants submitted a proposed consent remand order to the court. By consent order entered January 3, 2019, the case was remanded to state court (presumably because a forum defendant had been served prior to removal).	**!!** **oo** ****** **##**
138.	Notice of Removal and Copies of All Process and Pleadings in State Court, Ransford v. Ethicon, Inc., No. 3:18-cv-16694-FLW-DEA (D.N.J. Nov. 30, 2018). Plaintiff, a citizen of New York, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective layered hernia mesh implant that caused him physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and New York law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On December 28, 2018, Plaintiff moved to remand arguing that removal was not proper because defendants were served before they completed the removal process (Defendants had not filed the notice of removal with the state court clerk). In numerous cases brought against Ethicon and J&J (including this one), the court entered an order dated February 19, 2019, administratively terminating the motions to remand without prejudice and directing the parties to submit briefs in representative cases. The court ruled on the motions to remand in the representative cases in *Dutton v. Ethicon*, *Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019). The court held that all three steps of removal (filing the notice of removal in federal district court, providing written notice to all adverse parties, and filing a copy of the notice with the state court clerk) must be completed before service upon the defendants. *Id.* at 87–88. This case was remanded by order dated November 12, 2019.	**xx** **@@** ****** **##**

139.	Notice of Removal and Copies of All Process and Pleadings in State Court, Cranwell v. Ethicon, Inc., No. 3:18-cv-16696-FLW-DEA (D.N.J. Nov. 30, 2018). Plaintiff, a citizen of Florida, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh implant that caused her physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and Florida law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On December 28, 2018, Plaintiff moved to remand arguing that removal was not proper because defendants were served before they completed the removal process (Defendants had not filed filing the notice of removal with the state court clerk). In numerous cases brought against Ethicon and J&J (including this one), the court entered an order dated February 19, 2019, administratively terminating the motions to remand without prejudice and directing the parties to submit briefs in representative cases. The court ruled on the motions to remand in the representative cases in *Dutton v. Ethicon, Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019). The court held that all three steps of removal (filing the notice of removal in federal district court, providing written notice to all adverse parties, and filing a copy of the notice with the state court clerk) must be completed before service upon the defendants. *Id.* at 87–88. This case was remanded by order dated November 6, 2019.	**xx** **@@** ****** **##**
140.	Notice of Removal and Copies of All Process and Pleadings in State Court, Mangan v. Ethicon, Inc., No. 3:18-cv-16698-FLW-DEA (D.N.J. Nov. 30, 2018). Plaintiff, a citizen of Minnesota, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh patch that caused him physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and Minnesota law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By letter dated December 5, 2018, defendants submitted a proposed consent remand order to the court. By consent order entered December 6, 2018, the case was remanded to state court (presumably because a forum defendant had been served prior to removal).	**!!** **oo** ****** **##**

141.	Notice of Removal and Copies of All Process and Pleadings in State Court, Bailey v. Ethicon, Inc., No. 3:18-cv-16699-FLW-DEA (D.N.J. Nov. 30, 2018). Plaintiffs, citizens of Texas, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh patch that caused physical injury to husband and loss of consortium to his wife. Plaintiffs asserted products liability claims pursuant to New Jersey and Texas law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By letter dated December 5, 2018, defendants submitted a proposed consent remand order to the court. By consent order entered December 6, 2018, the case was remanded to state court (presumably because a forum defendant had been served prior to removal).	**!!** **oo** ****** **##**
142.	Notice of Removal and Copies of All Process and Pleadings in State Court, Cashe v. Ethicon, Inc., No. 3:18-cv-16700-FLW-DEA (D.N.J. Nov. 30, 2018). Plaintiff, a citizen of Florida, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh patch that caused her physical injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By letter dated December 5, 2018, defendants submitted a proposed consent remand order to the court. By consent order entered December 6, 2018, the case was remanded to state court (presumably because a forum defendant had been served prior to removal).	**!!** **oo** ****** **##**

December 2018		
143.	Notice of Removal and Copies of All Process and Pleadings in State Court, Martinez v. Ethicon, Inc., No. 3:18-cv-16760-FLW-DEA (D.N.J. Dec. 3, 2018). Plaintiff, a citizen of Colorado, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh patch that caused her physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and Colorado law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On December 28, 2018, Plaintiff moved to remand arguing that removal was not proper because defendants were served before they completed the removal process (Defendants had not filed the notice of removal with the state court clerk). In numerous cases brought against Ethicon and J&J (including this one), the court entered an order dated February 19, 2019, administratively terminating the motions to remand without prejudice and directing the parties to submit briefs in representative cases. The court ruled on the motions to remand in the representative cases in *Dutton v. Ethicon, Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019). The court held that all three steps of removal (filing the notice of removal in federal district court, providing written notice to all adverse parties, and filing a copy of the notice with the state court clerk) must be completed before service upon the defendants. *Id.* at 87–88. This case was remanded by order dated November 12, 2019.	**xx** **@@** ****** **##**

144.	Notice of Removal and Copies of All Process and Pleadings in State Court, Poole v. Ethicon, Inc., No. 3:18-cv-16856-FLW-DEA (D.N.J. Dec. 5, 2018). Plaintiff, a citizen of Kentucky, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh patch that caused her physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and Kentucky law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On January 4, 2019, plaintiff moved to remand, arguing that defendants had been served prior to removal. In numerous cases brought against Ethicon and J&J (including this one), the court entered an order dated February 19, 2019 administratively terminating the motions to remand without prejudice and directing the parties to submit briefs in representative cases. The court ruled on the motions to remand in the representative cases in *Dutton v. Ethicon*, *Inc*., 423 F. Supp. 3d 81 (D.N.J. 2019). The court held that all three steps of removal (filing the notice of removal in federal district court, providing written notice to all adverse parties, and filing a copy of the notice with the state court clerk) must be completed before service upon the defendants. *Id*. at 87–88. This case was remanded by order dated November 8, 2019.	**xx** **@@** ****** **##**

145.	Notice of Removal and Copies of All Process and Pleadings in State Court, Sinnamon v. Ethicon, Inc., No. 3:18-cv-16936-FLW-DEA (D.N.J. Dec. 7, 2018). Plaintiff, a citizen of Georgia, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh patch that caused him physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and Georgia law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On January 4, 2019, Plaintiff moved to remand arguing that removal was not proper because defendants were served before they completed the removal process (Defendants had not filed the notice of removal with the state court clerk). In numerous cases brought against Ethicon and J&J (including this one), the court entered an order dated February 19, 2019, administratively terminating the motions to remand without prejudice and directing the parties to submit briefs in representative cases. The court ruled on the motions to remand in the representative cases in *Dutton v. Ethicon*, *Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019). The court held that all three steps of removal (filing the notice of removal in federal district court, providing written notice to all adverse parties, and filing a copy of the notice with the state court clerk) must be completed before service upon the defendants. *Id.* at 87–88. This case was remanded by order dated November 8, 2019.	**xx** **@@** ****** **##**

146.	Notice of Removal and Copies of All Process and Pleadings in State Court, Holleran v. Ethicon, Inc., No. 3:18-cv-16954-FLW-DEA (D.N.J. Dec. 7, 2018). Plaintiff, a citizen of Pennsylvania, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh implant that caused him physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and Pennsylvania law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On January 4, 2019, Plaintiff moved to remand arguing that removal was not proper because defendants were served before they completed the removal process (Defendants had not filed the notice of removal with the state court clerk). In numerous cases brought against Ethicon and J&J (including this one), the court entered an order dated February 19, 2019, administratively terminating the motions to remand without prejudice and directing the parties to submit briefs in representative cases. The court ruled on the motions to remand in the representative cases in *Dutton v. Ethicon*, *Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019). The court held that all three steps of removal (filing the notice of removal in federal district court, providing written notice to all adverse parties, and filing a copy of the notice with the state court clerk) must be completed before service upon the defendants. *Id.* at 87–88. This case was remanded by order dated November 8, 2019.	**xx** **@@** ****** **##**

147.	Notice of Removal and Copies of All Process and Pleadings in State Court, Hooper v. Ethicon, Inc., No. 3:18-cv-16955-FLW-DEA (D.N.J. Dec. 7, 2018). Plaintiffs, citizens of Florida, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiffs alleged that defendants manufactured and supplied a defective layered hernia mesh implant that caused physical injury to husband that loss of consortium to wife. Plaintiff asserted products liability claims pursuant to New Jersey and Florida law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass* Insurance *Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On January 4, 2019, Plaintiff moved to remand arguing that removal was not proper because defendants were served before they completed the removal process (Defendants had not filed the notice of removal with the state court clerk). In numerous cases brought against Ethicon and J&J (including this one), the court entered an order dated February 19, 2019, administratively terminating the motions to remand without prejudice and directing the parties to submit briefs in representative cases. The court ruled on the motions to remand in the representative cases in *Dutton v. Ethicon, Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019). The court held that all three steps of removal (filing the notice of removal in federal district court, providing written notice to all adverse parties, and filing a copy of the notice with the state court clerk) must be completed before service upon the defendants. *Id.* at 87–88. This case was remanded by order dated November 8, 2019.	**xx** **@@** ****** **##**

148.	Notice of Removal and Copies of All Process and Pleadings in State Court, Harris v. Ethicon, Inc., No. 3:18-cv-16957-FLW-DEA (D.N.J. Dec. 7, 2018). Plaintiffs, citizens of Alabama, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiffs alleged that defendants manufactured and supplied a defective hernia mesh patch that caused physical injury to wife and loss of consortium to husband. Plaintiffs asserted products liability claims pursuant to New Jersey and Alabama law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On January 4, 2019, plaintiffs moved to remand arguing that removal was not proper because defendants were served before they completed the removal process (Defendants had not filed the notice of removal with the state court clerk). In numerous cases brought against Ethicon and J&J (including this one), the court entered an order dated February 19, 2019, administratively terminating the motions to remand without prejudice and directing the parties' briefs in representative cases. The court ruled on the motions to remand in the representative cases in *Dutton v. Ethicon, Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019). The court held that all three steps of removal (filing the notice of removal in federal district court, providing written notice to all adverse parties, and filing a copy of the notice with the state court clerk) must be completed before service upon the defendants. *Id.* at 87–88. This case was remanded by order dated November 8, 2019.	**xx** **@@** ****** **##**

	Cases Nos. 149–72 against Bayer: In each of these cases, plaintiff sued Bayer Corporation (an Indiana corporation with its principal place of business in New Jersey), Beyer U.S. LLC (a citizen of Indiana and New Jersey), Bayer HealthCare LLC (a citizen of Delaware, Pennsylvania, New Jersey, Germany, and the Netherlands), Bayer Essure Inc. (a Delaware corporation with its principal place of business in New Jersey), and Bayer HealthCare Pharmaceuticals, Inc. (a Delaware corporation with its principal place of business in New Jersey) in state court in Pennsylvania. Plaintiffs alleged that the Essure birth control device manufactured and supplied by defendants was defective and caused them injury. Plaintiffs asserted various negligence and breach of warranty claims. Plaintiffs served defendant with writs of summons by personal service. Plaintiffs then filed a complaint in each action. Defendants removed the cases based upon diversity before service on the forum defendant. The cases were consolidated with other Bayer Essure cases for purposes of discovery and pre-trial motions. Plaintiffs moved to remand. Defendants argued that removal was proper because Bayer HealthCare LLC (the sole defendant that is a citizen of Pennsylvania) had not been served prior to removal. By order dated May 24, 2019, the district court held that service of the writ of summons did not constitute "service" for purposes of Section 1441(b)(2) and therefore held that removal was proper. McLaughlin v. Bayer Corp., No. 14-7315 (E.D. Pa. argued Feb. 11, 2019)).	**xx** **$$** **RR**
149.	Notice of Removal, Blair v. Bayer Corp., No. 2:18-cv-05345-PD (E.D. Pa. Dec. 11, 2018).	
150.	Notice of Removal, Hooks v. Bayer Corp., No. 2:18-cv-05346-WB (E.D. Pa. Dec. 11, 2018).	
151.	Notice of Removal, Hoskins v. Bayer Corp., No. 2:18-cv-05347-CFK (E.D. Pa. Dec. 11, 2018).	
152.	Notice of Removal, Hurt v. Bayer Corp., No. 2:18-cv-05348-GJP (E.D. Pa. Dec. 11, 2018).	
153.	Notice of Removal, James v. Bayer Corp., No. 2:18-cv-05349-CDJ (E.D. Pa. Dec. 11, 2018).	
154.	Notice of Removal, Krueger v. Bayer Corp., No. 2:18-cv-05350-GJP (E.D. Pa. Dec. 11, 2018).	
155.	Notice of Removal, Luterek v. Bayer Corp., No. 2:18-cv-05351-MSG (E.D. Pa. Dec. 11, 2018).	
156.	Notice of Removal, Meachum v. Bayer Corp., No. 2:18-cv-05352-JD (E.D. Pa. Dec. 11, 2018).	
157.	Notice of Removal, Pearson v. Bayer Corp., No. 2:18-cv-05353-MMB (E.D. Pa. Dec. 11, 2018).	
158.	Notice of Removal, Perdue v. Bayer Corp., No. 2:18-cv-05356-WB (E.D. Pa. Dec. 11, 2018).	
159.	Notice of Removal, Powell v. Bayer Corp., No. 2:18-cv-05357-CMR (E.D. Pa. Dec. 11, 2018).	

160.	Notice of Removal, Purkey v. Bayer Corp., No. 2:18-cv-05358-PBT (E.D. Pa. Dec. 11, 2018).	
161.	Notice of Removal, Stokes v. Bayer Corp., No. 2:18-cv-05359-BMS (E.D. Pa. Dec. 11, 2018).	
162.	Notice of Removal, Teel v. Bayer Corp., No. 2:18-cv-05360-JS (E.D. Pa. Dec. 11, 2018).	
163.	Notice of Removal, Tester v. Bayer Corp., No. 2:18-cv-05361-JS (E.D. Pa. Dec. 12, 2018).	
164.	Notice of Removal, Botelho v. Bayer Corp., No. 2:18-cv-05362-GJP (E.D. Pa. Dec. 11, 2018).	
165.	Notice of Removal, Cleland v. Bayer Corp., No. 2:18-cv-05363-MSG (E.D. Pa. Dec. 11, 2018).	
166.	Notice of Removal, Gonzalez v. Bayer Corp., No. 2:18-cv-05364-CDJ (E.D. Pa. Dec. 11, 2018).	
167.	Notice of Removal, Gastelum v. Bayer Corp., No. 2:18-cv-05365-PD (E.D. Pa. Dec. 11, 2018).	
168.	Notice of Removal, Garr v. Bayer Corp., No. 2:18-cv-05366-GAM (E.D. Pa. Dec. 11, 2018).	
169.	Notice of Removal, Cortez v. Bayer Corp., No. 2:18-cv-05367-JP (E.D. Pa. Dec. 11, 2018).	
170.	Notice of Removal, Hope v. Bayer Corp., No. 2:18-cv-05370-ER (E.D. Pa. Dec. 11, 2018).	
171.	Notice of Removal, Forrest v. Bayer Corp., No. 2:18-cv-05371-CFK (E.D. Pa. Dec. 11, 2018).	
172.	Notice of Removal, Grega v. Bayer Corp., No. 2:18-cv-05372-CFK (E.D. Pa. Dec. 11, 2018).	
173.	Notice of Removal, Armstrong v. Bayer Corp., No. 2:18-cv-05343-JD (E.D. Pa. Dec. 11, 2018). This action has the same description as Cases Nos. 149–73 against Bayer supra, but was not consolidated with the other cases. The court denied plaintiff's motion to remand by order dated May 24, 2019. This case was administratively closed on March 11, 2021 for "statistical purposes." Mclaughlin v. Bayer Essure Inc., No. 14-7315 (E.D. Pa. Mar. 11, 2021).	**xx** **$$** **RR**

174.	Notice of Removal & Copies of All Process & Pleadings in State Court, Rogers v. Ethicon, Inc., No. 3:18-cv-17089-FLW-DEA (D.N.J. Dec. 11, 2018). Plaintiff, a citizen of Oregon, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective hernia system implant that caused her physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and Oregon law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On December 19, 2018, plaintiff entered a notice of voluntary dismissal without prejudice.	**!!** **%%** ****** **##** **RR**
175.	Notice of Removal & Copies of All Process & Pleadings in State Court, Fine v. Ethicon, Inc., No. 3:18-cv-17113-FLW-DEA (D.N.J. Dec. 12, 2018). Plaintiff, a Florida citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh product implant that caused her physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and Florida law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On January 11, 2019, Plaintiff moved to remand arguing that removal was not proper because defendants were served before they completed the removal process (Defendants had not filed the notice of removal with the state court clerk). In numerous cases brought against Ethicon and J&J (including this one), the court entered an order dated February 19, 2019 administratively terminating the motions to remand without prejudice and directing the parties to submit briefs in representative cases. The court ruled on the motions to remand in the representative cases in *Dutton v. Ethicon, Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019). The court held that all three steps of removal (filing the notice of removal in federal district court, providing written notice to all adverse parties, and filing a copy of the notice with the state court clerk) must be completed before service upon the defendants. *Id.* at 87-88. This case was remanded by order dated November 18, 2019.	**xx** **@@** ****** **##**

176.	Notice of Removal & Copies of All Process & Pleadings in State Court, Vautaw v. Ethicon, Inc., No. 3:18-cv-17115-FLW-DEA (D.N.J. Dec. 12, 2018). Plaintiff, an Indiana citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh product implant that caused him physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and Indiana law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). No motion to remand was filed. By order dated February 19, 2020, this case was consolidated with other cases for purposes of discovery.	**!!** **RR** ****** **##**
177.	Notice of Removal & Copies of All Process & Pleadings in State Court, Irving v. Ethicon, Inc., No. 3:18-cv-17143-FLW-DEA (D.N.J. Dec. 13, 2018). Plaintiff, a Pennsylvania citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh patch implant that caused her physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and Pennsylvania law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On January 14, 2019, Plaintiff moved to remand arguing that pre-service removal was not proper and in violation of the forum defendant rule. In numerous cases brought against Ethicon and J&J (including this one), the court entered an order dated February 19, 2019, administratively terminating the motions to remand without prejudice and directing the parties to submit briefs in representative cases. The court ruled on the motions to remand in the representative cases in *Dutton v. Ethicon, Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019). This case was not remanded. By order dated February 19, 2020, this case was consolidated with other cases for purposes of discovery.	**xx** **$$** **RR** ****** **##**

178.	Notice of Removal & Copies of All Process & Pleadings in State Court, Dutton v. Ethicon, Inc., No. 3:18-cv-17199-FLW-DEA (D.N.J. Dec. 14, 2018). Plaintiffs, citizens of Kentucky, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia system implant that caused physical injury to wife and loss of consortium to husband. Plaintiffs asserted products liability claims pursuant to New Jersey and Kentucky law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass* Insurance *Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On January 14, 2019, Plaintiffs moved to remand arguing that removal was not proper because defendants were served before they completed the removal process (Defendants had not filed the notice of removal with the state court clerk). In numerous cases brought against Ethicon and J&J (including this one), the court entered an order dated February 19, 2019, administratively terminating the motions to remand without prejudice and directing the parties to submit briefs in representative cases. The court ruled on the motions to remand in the representative cases in *Dutton v. Ethicon, Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019). The court held that all three steps of removal (filing the notice of removal in federal district court, providing written notice to all adverse parties, and filing a copy of the notice with the state court clerk) must be completed before service upon the defendants. *Id.* at 87-88. This case was remanded by order dated October 18, 2019.	**xx** **@@** ****** **##**
179.	Notice of Removal & Copies of All Process & Pleadings in State Court, Bayer v. Ethicon, Inc., No. 3:18-cv-17200-FLW-DEA (D.N.J. Dec. 14, 2018). Plaintiffs, citizens of Tennessee, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiffs alleged that defendants manufactured and supplied a defective hernia mesh product implant that caused physical injury to husband and loss of consortium to wife. Plaintiffs asserted products liability claims pursuant to New Jersey and Tennessee law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By letter dated December 28, 2018, defendants submitted a proposed consent remand order to the court. By consent order entered January 3, 2019, the case was remanded to state court (presumably because a forum defendant had been served prior to removal).	**!!** **oo** ****** **##**

180.	Notice of Removal & Copies of All Process & Pleadings in State Court, Kerr v. Ethicon, Inc., No. 3:18-cv-17396-FLW-DEA (D.N.J. Dec. 19, 2018). Plaintiff, a citizen of Hawaii, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia system implant that caused her physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and Hawaii law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On January 18, 2019, Plaintiff moved to remand. In numerous cases brought against Ethicon and J&J (including this one), the court entered an order dated February 19, 2019, administratively terminating the motions to remand without prejudice and directing the parties to submit briefs in representative cases. The court ruled on the motions to remand in the representative cases in *Dutton v. Ethicon, Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019). The motion to remand in this case was denied by order dated October 30, 2019. By order dated February 19, 2020, this case was consolidated with others for discovery purposes.	**xx** **$$** ****** **##** **RR**
181.	Notice of Removal & Copies of All Process & Pleadings in State Court, Wilhelm v. Ethicon, Inc., No. 3:18-cv-17451-FLW-DEA (D.N.J. Dec. 20, 2018). Plaintiff, a citizen of Ohio, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia system implant that caused her physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and Ohio law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On January 18, 2019, Plaintiff moved to remand arguing that removal was not proper because defendants were served before they completed the removal process (Defendants had not filed the notice of removal with the state court clerk). In numerous cases brought against Ethicon and J&J (including this one), the court entered an order dated February 19, 2019, administratively terminating the motions to remand without prejudice and directing the parties to submit briefs in representative cases. The court ruled on the motions to remand in the representative cases in *Dutton v. Ethicon, Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019). The court held that all three steps of removal (filing the notice of removal in federal district court, providing written notice to all adverse parties, and filing a copy of the notice with the state court clerk) must be completed before service upon the defendants. *Id.* at 87-88. This case was remanded by order dated November 8, 2019.	**xx** **@@** ****** **##**

182.	Notice of Removal & Copies of All Process & Pleadings in State Court, Akers v. Ethicon, Inc., No. 3:18-cv-17453-FLW-DEA (D.N.J. Dec. 20, 2018). Plaintiff, a citizen of Texas, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia system implant that caused him physical injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By letter dated January 2, 2019, defendants submitted a proposed consent order to the court. By consent order entered January 3, 2019, the case was remanded to state court (presumably because a forum defendant had been served prior to removal).	**!!** **oo** ****** **##**
183.	Notice of Removal & Copies of All Process & Pleadings in State Court, Wilson v. Ethicon, Inc., No. 3:18-cv-17456-FLW-DEA (D.N.J. Dec. 20, 2018). Plaintiff, a citizen of Ohio, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia system implant that caused her physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and Ohio law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By letter dated January 2, 2019, defendants submitted a proposed consent order to the court. By consent order entered January 3, 2019, the case was remanded to state court (presumably because a forum defendant had been served prior to removal).	**!!** **oo** ****** **##**

184.	Notice of Removal & Copies of All Process & Pleadings in State Court, Szklarski v. Ethicon, Inc., No. 3:18-cv-17510-FLW-DEA (D.N.J. Dec. 21, 2018). Plaintiffs, citizens of Wisconsin, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh product implant that caused physical injury to husband and loss of consortium to wife. Plaintiffs asserted products liability claims pursuant to New Jersey and Wisconsin law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass* Insurance *Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On January 22, 2019, Plaintiffs moved to remand arguing that pre-service removal violated the forum defendant rule. In numerous cases brought against Ethicon and J&J (including this one), the court entered an order dated February 19, 2019, administratively terminating the motions to remand without prejudice and directing the parties to submit briefs in representative cases. The court ruled on the motions to remand in the representative cases in *Dutton v. Ethicon*, *Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019). This case was not remanded. By order dated February 19, 2020, this case was consolidated with other cases for purposes of discovery.	**xx** **$$** ****** **##** **RR**
185.	Notice of Removal and Copies of All Process and Pleadings in State Court, Morris v. Ethicon, Inc., No. 3:18-cv-17514-FLW-DEA (D.N.J. Dec. 21, 2018). Plaintiff, a citizen of Ohio, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh product implant that caused him physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and Ohio law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On January 22, 2019, Plaintiff moved to remand arguing that pre-service removal violated the forum defendant rule. In numerous cases brought against Ethicon and J&J (including this one), the court entered an order dated February 19, 2019, administratively terminating the motions to remand without prejudice and directing the parties to submit briefs in representative cases. The court ruled on the motions to remand in the representative cases in *Dutton v. Ethicon*, *Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019). This case was not remanded. By order dated February 19, 2020, this case was consolidated with other cases for purposes of discovery.	**xx** **$$** ****** **##** **RR**

186.	Notice of Removal and Copies of All Process and Pleadings in State Court, Craig v. Ethicon, Inc., No. 3:18-cv-17516-FLW-DEA (D.N.J. Dec. 21, 2018). Plaintiff, a South Carolina citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective layered hernia mesh product implant that caused her physical injury. Plaintiff asserted products liability claims pursuant to New Jersey and South Carolina law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On January 22, 2019, Plaintiff moved to remand arguing that pre-service removal violated the forum defendant rule. In numerous cases brought against Ethicon and J&J (including this one), the court entered an order dated February 19, 2019, administratively terminating the motions to remand without prejudice and directing the parties to submit briefs in representative cases. The court ruled on the motions to remand in the representative cases in *Dutton v. Ethicon*, *Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019). This case was not remanded. By order dated February 19, 2020, this case was consolidated with other cases pending in the district for purposes of discovery.	**xx** **$$** ****** **##** **RR**

187.	Notice of Removal and Copies of All Process and Pleadings in State Court, Snader v. Ethicon, Inc., No. 3:18-cv-17553-FLW-DEA (D.N.J. Dec. 24, 2018). Plaintiff, a Tennessee citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective layered hernia mesh product implant that caused him physical injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Defendants removed based upon diversity, alleging that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On January 23, 2019, Plaintiff moved to remand arguing that defendants closed their office from December 21, 2018 through January 2, 2019 to avoid service. In numerous cases brought against Ethicon and J&J (including this one), the court entered an order dated February 19, 2019, administratively terminating the motions to remand without prejudice and directing the parties to submit briefs representative cases. On October 18, 2019, the court denied the motion to remand, finding that defendants reasonably explained the offices were closed for the holidays and further finding that even if defendants closed the offices to evade service, such behavior was not so egregious as to make removal improper. The court interpreted *Encompass* to permit gamesmanship, "pre-service machinations" and other "unsavory" behavior to prevent removal. Dutton v. Ethicon, Inc., 423 F. Supp. 3d 81, 89-90 (D.N.J. 2019) (citing McLaughlin v. Bayer Essure, Inc., No. 14-7315, 2019 WL 2248690, at *4 (E.D. Pa. May 24, 2019)). By order dated February 19, 2020, this case was consolidated with several others for discovery purposes.	**xx** **$$** **RR** ****** **##** **&&**
188.	Notice of Removal and Copies of All Process and Pleadings in State Court, Fraser v. Ethicon, Inc., No. 3:18-cv-17642-FLW-DEA (D.N.J. Dec. 27, 2018). Plaintiff, an Alabama citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective layered hernia mesh product implant that caused her physical injury. Plaintiff asserted products liability claims pursuant to New Jersey law and Alabama law. Before being served, defendants removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). No motion to remand was filed. By order entered February 19, 2020, the case was consolidated with other similar cases for discovery purposes.	**!!** ****** **##** **RR**

189.	Notice of Removal and Copies of All Process and Pleadings in State Court, Williams v. Ethicon, Inc., No. 3:18-cv-17743-FLW-DEA (D.N.J. Dec. 31, 2018). Plaintiff, a Texas citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh implant that caused him physical injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Before being served, defendants removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). No motion to remand was filed. By order entered February 19, 2020, the case was consolidated with other similar cases for discovery purposes.	**!!** **RR** ****** **##**
190.	Notice of Removal & Copies of All Process & Pleadings in State Court, Crockett v. Ethicon, Inc., No. 3:18-cv-17746-FLW-DEA (D.N.J. Dec. 31, 2018). Plaintiff, a Kentucky citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh implant that caused her physical injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Before being served, defendants removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). No motion to remand was filed. By order dated February 19, 2020, this case was consolidated with other similar cases for purposes of discovery.	**!!** **RR** ****** **##**
January 2019		
191.	Notice of Removal & Copies of All Process & Pleadings in State Court, Eitmann v. Ethicon, Inc., No. 3:19-cv-00021-FLW-DEA (D.N.J. Jan. 2, 2019). Plaintiff, a citizen of Louisiana, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiffs alleged that defendants manufactured and supplied a defective hernia mesh that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey and Louisiana law. Representing that they had not been served, defendants removed based upon diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The docket does not reflect a motion to remand. By order entered February 19, 2020, the case was consolidated with other similar cases for discovery purposes.	**!!** **RR** ****** **##**

192.	Notice of Removal & Copies of All Process & Pleadings in State Court, Grier v. Ethicon, Inc., No. 3:19-cv-00030-FLW-DEA (D.N.J. Jan. 2, 2019). Plaintiffs, citizens of Delaware, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Bergen County. Plaintiffs alleged that defendants manufactured and supplied a defective hernia mesh that caused physical injury to husband and loss of consortium to wife. Plaintiffs asserted products liability claims pursuant to New Jersey law. The case was transferred to Middlesex County. Representing that they had not been served, defendants removed based upon diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The docket does not reflect a motion to remand. By order entered February 19, 2020, the case was consolidated with other similar cases for discovery purposes.	**!!** **RR** ****** **##**
193.	Notice of Removal and Copies of All Process and Pleadings in State Court, Niedbala v. Ethicon, Inc., No. 3:19-cv-00041-FLW-DEA (D.N.J. Jan. 2, 2019). Plaintiffs, citizens of Pennsylvania, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiffs alleged that defendants manufactured and supplied a defective hernia mesh that caused physical injury to plaintiff and loss of consortium to wife. Representing that they had not been served, defendants removed based upon diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiffs moved to remand on January. 30, 2019. By order dated February 19, 2020, the Court administratively terminated the motion to remand.	**xx** **RR** ****** **##**
194.	Notice of Removal, Andrews v. Merck & Co., No. 2:19-cv-20027-HB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered January 23, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa.) The MDL docket did not reflect a motion to remand.	**!!** **RR**

195.	Notice of Removal, Corbin v. Merck & Co., No. 3:19-cv-00111-PGS-TJB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered January 23, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa. filed Apr. 20, 2018) The MDL docket did not reflect a motion to remand.	**!!** **RR**
196.	Notice of Removal, Dietsch v. Merck & Co., No. 3:19-cv-00113-PGS-TJB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered January 23, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa. filed Apr. 20, 2018) The MDL docket did not reflect a motion to remand.	**!!** **RR**

197.	Notice of Removal, Diprete v. Merck & Co., No. 2:19-cv-20030-HB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered January 23, 2019, case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa. filed Apr. 20, 2018) The MDL docket did not reflect a motion to remand.	**!!** **RR**
198.	Notice of Removal, Dudek v. Merck & Co., No. 2:19-cv-20031-HB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered January 23, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa. filed Apr. 20, 2018)	**RR**
199.	Notice of Removal, Hanson v. Merck & Co., 2:19-cv-20032-HB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered January 23, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa. filed Apr. 20, 2018) The MDL docket did not reflect a motion to remand.	**!!** **RR**

200.	Notice of Removal, Hawk v. Merck & Co., No. 2:19-cv-20033-HB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered January 23, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa. filed Apr. 20, 2018) The MDL docket did not reflect a motion to remand.	**!!** **RR**
201.	Notice of Removal, Holmes v. Merck & Co., No. 2:19-cv-20034-HB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered January 23, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa. filed Apr. 20, 2018). The MDL docket did not reflect a motion to remand.	**!!** **RR**

202.	Notice of Removal, Hopper v. Merck & Co., No. 2:19-cv-20035-HB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered January 23, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa. filed Apr. 20, 2018) The MDL docket did not reflect a motion to remand.	**!!** **RR**
203.	Notice of Removal, Huber v. Merck & Co., No. 3:19-cv-00138-PGS-TJB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered January 23, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa. filed Apr. 20, 2018) The MDL docket did not reflect a motion to remand.	**!!** **RR**

204.	Notice of Removal, Hughey v. Merck & Co., No. 3:19-cv-00140-PGS-TJB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered January 23, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa. filed Apr. 20, 2018) The MDL docket did not reflect a motion to remand.	**!!** **RR**
205.	Notice of Removal, Krueger v. Merck & Co., No. 3:19-cv-00145-PGS-TJB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered January 23, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa. filed Apr. 20, 2018) The MDL docket did not reflect a motion to remand.	**!!** **RR**

206.	Notice of Removal, Lawson v. Merck & Co., No. 2:19-cv-20039-HB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered January 23, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa. filed Apr. 20, 2018) The MDL docket did not reflect a motion to remand.	**!!** **RR**
207.	Notice of Removal, McGraw v. Merck & Co., No. 3:19-cv-00147-PGS-TJB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered January 23, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa. filed Apr. 20, 2018) The MDL docket did not reflect a motion to remand.	**!!** **RR**

208.	Notice of Removal, Nelson v. Merck & Co., No. 3:19-cv-00148-PGS-TJB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered Janunary 23, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa. filed Apr. 20, 2018). The MDL docket did not reflect a motion to remand.	**!!** **RR**
209.	Notice of Removal, Rabon v. Merck & Co., No. 3:19-cv-00149-PGS-TJB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered January 23, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa. filed Apr. 20, 2018). The MDL docket did not reflect a motion to remand.	**!!** **RR**

210.	Notice of Removal, Randolph v. Merck & Co., No. 3:19-cv-00150-PGS-TJB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered January 23, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa. filed Apr. 20, 2018). The MDL docket did not reflect a motion to remand.	**!!** **RR**
211.	Notice of Removal, Smaltz v. Merck & Co., No. 3:19-cv-00151-PGS-TJB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered January 23, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa. filed Apr. 20, 2018). The MDL docket did not reflect a motion to remand.	**!!** **RR**

212.	Notice of Removal, Van Pelt v. Merck & Co., No. 3:19-cv-00153-PGS-TJB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered January 23, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa. filed Apr. 20, 2018). The MDL docket did not reflect a motion to remand.	**!!** **RR**
213.	Notice of Removal, Vigil v. Merck & Co., No. 3:19-cv-00154-PGS-TJB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered January 23, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa. filed Apr. 20, 2018). The MDL docket did not reflect a motion to remand.	**!!** **RR**

214.	Notice of Removal, Wemmer v. Merck & Co., No. 3:19-cv-0155-PGS-TJB (D.N.J. Jan. 4, 2019). Plaintiff sued Merck & Co., Inc. (a New Jersey corporation with its principal place of business in New Jersey), Merck Sharp & Dohme Corp. (a New Jersey corporation with its principal place of business in New Jersey), and McKesson Corp. (a Delaware corporation with its principal place of business in California) in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged injuries caused by Merck's shingles vaccine—ZOSTAVAX. Merck removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018) and asserting that the forum defendant rule did not prohibit removal because the Merck defendants had not yet been served. By order entered January 23, 2019, the case was transferred to the MDL ZOSTAVAX Products Liability Litigation. *In re* ZOSTAVAX Prods. Liab. Litig., MDL No. 2:18-md-02848-HB (E.D. Pa. filed Apr. 20, 2018). The MDL docket did not reflect a motion to remand.	**!!** **RR**
215.	Notice of Removal & Copies of All Process & Pleadings in State Court, Galvez v. Ethicon, Inc., No. 3:19-cv-00112-FLW-DEA (D.N.J. Jan. 4, 2019). Plaintiff, a citizen of Kansas, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey and Kansas law. Representing that they had not been served, defendants removed based upon diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff did not move to remand. By order entered February 19, 2020, the case was consolidated with other similar cases for discovery purposes.	**!!** **RR** ****** **##**
216.	Notice of Removal & Copies of All Process & Pleadings in State Court, Marshall v. Ethicon, Inc., No. 3:19-cv-00304-FLW-DEA (D.N.J. Jan. 9, 2019). Plaintiff, a citizen of Pennsylvania, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey and Pennsylvania law. Representing that they had not been served, defendants removed based on diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff did not move to remand. By order entered February 19, 2020, the case was consolidated with other similar cases for discovery purposes.	**!!** **RR** ****** **##**

217.	Notice of Removal, Williams v. Ethicon, Inc., No. 3:19-cv-00174-FLW-DEA (D.N.J. Jan. 7, 2019). Plaintiff, a citizen of North Carolina, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey and North Carolina law. Representing that they had not been served, defendants removed based on diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff moved to remand, challenging defendants' snap removal. In numerous cases brought against Ethicon and J&J (including this one), the court entered an order dated February 19, 2019, administratively terminating the motions to remand without prejudice and directing the parties to submit briefs in representative cases. This case was one of the representative cases. The court ruled on the motions to remand in the representative cases in *Dutton v. Ethicon*, *Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019). The court denied plaintiff's motion to remand based on *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.,* 902 F.3d 147 (3d Cir. 2018). By order entered February 19, 2020, the case was consolidated with other similar cases for discovery purposes.	**xx** **$$** **RR** ****** **##**
218.	Notice of Removal & Copies of All Process & Pleadings in State Court, Cauley v. Ethicon, Inc., No. 3:19-cv-00292-FLW-DEA (D.N.J. Jan. 9, 2019). Plaintiff, a citizen of North Carolina, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey and North Carolina law. The case was transferred to Middlesex County. Representing that they had not been served, defendants removed based on discovery and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff did not move to remand. By order entered February 19, 2020, the case was consolidated with other similar cases for discovery purposes.	**!!** **RR** ****** **##**

219.	Notice of Removal & Copies of All Process & Pleadings in State Court, Wolter v. Ethicon, Inc., No. 3:19-cv-00303-FLW-DEA (D.N.J. Jan. 9, 2019). Plaintiff, a citizen of Colorado, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Representing that they had not been served, defendants removed based on diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.,* 902 F.3d 147 (3d Cir. 2018). Plaintiff did not move to remand. By order entered February 19, 2020, the case was consolidated with other similar cases for discovery purposes.	**!!** **RR** ****** **##**
220.	Notice of Removal & Copies of All Process & Pleadings in State Court, Clark v. Ethicon, Inc., No. 3:19-cv-00342-FLW-DEA (D.N.J. Jan. 10, 2019). Plaintiff, a citizen of California, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey and California law. Representing that they had not been served, defendants removed based on diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff did not move to remand. By order entered February 19, 2020, the case was consolidated with other similar cases for discovery purposes.	**!!** **RR** ****** **##**
221.	Notice of Removal, Cox v. Bayer Corp., No. 2:19-cv-00170-GEKP (E.D. Pa. Jan. 11, 2019). Plaintiff, a citizen of Ohio, sued Bayer Corporation (an Indiana corporation with its principal place of business in New Jersey), Bayer U.S. LLC (a citizen of Indiana and New Jersey), Bayer HealthCare LLC (a citizen of Delaware, Pennsylvania, New Jersey, Germany, and the Netherlands), Bayer Essure Inc. (a Delaware corporation with its principal place of business in New Jersey), and Bayer HealthCare Pharmaceuticals, Inc. (a Delaware corporation with its principal place of business in New Jersey) in state court in Pennsylvania. Plaintiff alleged that the Essure birth control device manufactured and supplied by defendants was defective and caused them injury. Defendants removed based on diversity prior to service on the forum defendant. Plaintiff did not move to remand.	**!!** **RR**

222.	Notice of Removal & Copies of All Process & Pleadings in State Court, Lawen v. Ethicon, Inc., No. 3:19-cv-00343-FLW-DEA (D.N.J. Jan. 10, 2019). Plaintiff, a citizen of Washington, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey and Washington law. Representing that they had not been served, defendants removed based on diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff did not move to remand. By order entered February 19, 2020, the case was consolidated with other similar cases for discovery purposes.	**!!** **RR** ****** **##**
223.	Notice of Removal & Copies of All Process & Pleadings in State Court, Blankenship v. Ethicon, Inc., No. 3:19-cv-00399-FLW-DEA (D.N.J. Jan. 11, 2019). Plaintiff, a citizen of Oklahoma, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Representing that they had not been served, defendants removed based on diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By consent order entered January 24, 2019, the case was remanded back to state court (presumably because a forum defendant was served prior to removal).[383]	**!!** **oo** ****** **##**

383. The docket record does not indicate why the matter was remanded by agreement. The docket does indicate that plaintiff served Ethicon and Johnson & Johnson on January 11, 2019 at 10:20 a.m., after having filed the complaint at 12:09 a.m. on that date.

224.	Notice of Removal & Copies of All Process & Pleadings in State Court, McWilliams v. Ethicon, Inc., No. 3:19-cv-00400-FLW-DEA (D.N.J. Jan. 11, 2019). Plaintiff, a citizen of North Carolina, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey and North Carolina law. Representing that they had not been served, defendants removed based on diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By consent order entered January 24, 2019, the case was remanded to state court (presumably because a forum defendant had been served prior to removal).[384]	**!!** **oo** ****** **##**
225.	Notice of Removal & Copies of All Process & Pleadings in State Court, Martin v. Ethicon, Inc., No. 3:19-cv-00447-FLW-DEA (D.N.J. Jan. 14, 2019). Plaintiff, a citizen of North Dakota, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey and North Dakota law. Representing that they had not been served, defendants removed based on diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By consent order entered January 28, 2019, the case was remanded to state court (presumably because a forum defendant was served prior to removal).	**!!** **oo** ****** **##**

384. The docket record does not indicate why the matter was remanded by agreement. The docket does indicate that plaintiff served Ethicon and Johnson & Johnson on January 11, 2019 at 10:20 a.m., after having filed the complaint at 12:09 a.m. on that date.

226.	Notice of Removal & Copies of All Process & Pleadings in State Court, Kunes v. Ethicon, Inc., No. 3:19-cv-00546-FLW-DEA (D.N.J. Jan. 16, 2019). Plaintiff, a citizen of Wisconsin, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Representing that they had not been served, defendants removed based upon diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By consent order entered January 24, 2019, the case was remanded back to state court (presumably because a forum defendant was served prior to removal).	**!!** **oo** ****** **##**
227.	Notice of Removal & Copies of All Process & Pleadings in State Court, Lighthall v. Ethicon, Inc., No. 3:19-cv-00547-FLW-DEA (D.N.J. Jan. 16, 2019). Plaintiff, a citizen of New York, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey and New York law. Representing that they had not been served, defendants removed based on diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By consent order entered January 24, 2019, the case was remanded back to state court (presumably because a forum defendant was served prior to removal).	**!!** **oo** ****** **##**

228.	Notice of Removal & Copies of All Process & Pleadings in State Court, Simcox v. Ethicon, Inc., No. 3:19-cv-00548-FLW-DEA (D.N.J. Jan. 16, 2019). Plaintiff, a citizen of Virginia, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey and Virginia law. Representing that they had not been served, defendants removed based on diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By consent order entered January 24, 2019, the case was remanded back to state court (presumably because a forum defendant was served prior to removal).[385]	**!!** **oo** ****** **##**
229.	Notice of Removal, Jones v. SWEPI LP, No. 2:19-cv-00050-MRH (W.D. Pa. Jan. 16, 2019). Plaintiff sued SWEPI LP, Shell Energy Holding GP, LLC and the Kinnans (citizens of Pennsylvania) in the Court of Common Pleas, Allegheny County, Pennsylvania for the wrongful death of her decedent. Plaintiff alleged various tort and premises liability claims and cited the Pennsylvania Administrative Code. Defendants SWEPI and Shell Energy removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that the forum defendants (the Kinnans) had not been served. Plaintiff did not move to remand.	**!!** **RR** **##** **^^**
	February 2019	
230.	Notice of Removal & Copies of All Process & Pleadings in State Court, Collins v. Ethicon, Inc., No. 3:19-cv-06600 (D.N.J. Feb. 22, 2019). Plaintiff, a Georgia citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey and Georgia law. Representing that they had not been served, defendants removed based on diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff did not move to remand. By order entered February 19, 2020, the case was consolidated with other similar cases for discovery purposes.	**!!** **RR** ****** **##**

385. The docket record does not indicate why the matter was remanded by agreement. The docket does indicate that plaintiff served Ethicon and Johnson & Johnson on January 16, 2019 at 10:14 a.m., after having filed the complaint at 10:04 a.m. on January 16, 2019.

March 2019		
231.	Notice of Removal & Copies of All Process & Pleadings in State Court, Branchflower v. Ethicon, Inc., No. 3:19-cv-07938 (D.N.J. Mar. 6, 2019). Plaintiffs, Washington citizens, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused physical injury to husband and loss of consortium to wife. Plaintiff asserted products liability claims pursuant to New Jersey and Washington law. Representing that they had not been served, defendants removed based on diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff did not move to remand. By order entered February 19, 2020, the case was consolidated with other similar cases for discovery purposes.	**!!** **RR** ****** **##**
232.	Notice of Removal & Copies of All Process & Pleadings in State Court, Kayda v. Ethicon, Inc., No. 3:19-cv-07944 (D.N.J. Mar. 6, 2019). Plaintiff, a Missouri citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey and Missouri law. Representing that they had not been served, defendants removed based on diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff did not move to remand. By order entered February 19, 2020, the case was consolidated with other similar cases for discovery purposes.	**!!** **RR** ****** **##**
April 2019		
233.	Notice of Removal & Copies of All Process & Pleadings in State Court, Cron v. Ethicon, Inc., No. 3:19-cv-09269 (D.N.J. Apr. 4, 2019). Plaintiff, a Pennsylvania citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey and Pennsylvania law. Representing that they had not been served, defendants removed based on diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff did not move to remand. By order entered April 23, 2019, the case was transferred to *In re: Ethicon Physiomesh Flexible Composite Hernia Mesh Products Liability Litigation*, MDL No. 2782 (N.D. Ga. filed June 6, 2017). The docket in the MDL matter does not reflect a motion to remand.	**!!** **RR** ****** **##**

234.	Defendant's Notice of Removal, John Doe v. Valley Forge Mil. Acad. & Coll., No. 2:19-cv-01693-MMB (E.D. Pa. Apr. 19, 2019). Plaintiff, a citizen of Ohio, sued VFMAC, a citizen of Pennsylvania in state court in Pennsylvania. Plaintiff, who had been a high school student at VMAC, a military academy, sought damages for physical and emotional injuries caused by physical and sexual attacks upon him while at VFMAC. Plaintiff's claims were based on Pennsylvania law. Defendant removed based on diversity, representing that it had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff moved to remand, arguing that defendant was properly served prior to removal. By order entered July 15, 2019, the case was remanded to state court. The district court held that defendant was served prior to removal because defendant had not filed the notice of removal with the state court at the time it was served.	**xx** **@@** ****** **##** **^^**
235.	Notice of Removal & Copies of All Process & Pleadings in State Court, Ouzts v. Ethicon, Inc., No. 3:19-cv-11413 (D.N.J. Apr. 26, 2019). Plaintiff, a Tennessee citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey and Tennessee law. Representing that they had not been served, defendants removed based on diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff did not move to remand. The case was voluntarily dismissed without prejudice by plaintiff on May 5, 2019. [Note: This case was refiled again. See Case No. 238.]	**!!** **RR** **%%** ****** **##**
236.	Notice of Removal & Copies of All Process & Pleadings in State Court, Hocutt v. Ethicon, Inc., No. 3:19-cv-11854 (D.N.J. Apr. 30, 2019). Plaintiff, a Texas citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey and Texas law. Representing that they had not been served, defendants removed based on diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff did not move to remand. By order entered February 19, 2020, the case was consolidated with other similar cases for discovery purposes.	**!!** **RR** ****** **##**

May 2019		
237.	Notice of Removal & Copies of All Process & Pleadings in State Court, Smith v. Brenntag N. Am., No. 3:19-cv-12231-MAS-LHG (D.N.J. May 7, 2019). Plaintiff, a citizen of Alabama, sued numerous defendants for injuries sustained as the result of using Johnson & Johnson baby powder in New Jersey Superior Court, Middlesex County. Several defendants, including Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson Consumer Inc. (a New Jersey corporation with its principal place of business in New Jersey), are citizens of New Jersey. The Johnson & Johnson defendants removed based on diversity, representing that no forum defendant had been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff moved to remand on May 16, 2019, asserting that the Johnson & Johnson defendants had been served prior to removal. By letter dated June 5, 2019, counsel for J & J submitted a proposed consent remand order to the court. By consent order entered June 6, 2019, the case was remanded to state court (presumably because a forum defendant had been served prior to removal).	**xx** **MM**
238.	Notice of Removal & Copies of All Process & Pleadings in State Court, Ouzts v. Ethicon, Inc., No. 3:19-cv-12357 (D.N.J. May 9, 2019). Plaintiff, a Tennessee citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey and Tennessee law. Representing that they had not been served, defendants removed based on diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff did not move to remand. By order entered February 19, 2020, the case was consolidated with other similar cases for discovery purposes. [Note: This case was previously filed, removed and then voluntarily dismissed. See Case. No. 235.]	**!!** **RR** ****** **##**

239.	Notice of Removal & Copies of All Process & Pleadings in State Court, Montero v. Ethicon, Inc., No. 3:19-cv-12548 (D.N.J. May 15, 2019). Plaintiff, a Texas citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey and Texas law. Representing that they had not been served, defendants removed based on diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff did not move to remand. By letter dated November 4, 2019, defense counsel submitted a proposed consent remand order to the court. By consent order entered November 4, 2019, the case was remanded to state court (presumably because forum defendant(s) were served prior to removal).[386]	**!!** **oo** ****** **##**
240.	Notice of Removal & Copies of All Process & Pleadings in State Court, Ruffin v. Ethicon, Inc., No. 3:19-cv-12901 (D.N.J. May 24, 2019). Plaintiffs, Virginia citizens, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiffs alleged that defendants manufactured and supplied a defective hernia mesh that caused physical injury to husband and loss of consortium to wife. Plaintiffs asserted products liability claims pursuant to New Jersey law. Representing that they had not been served, defendants removed based on diversity and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff did not move to remand. By order entered February 19, 2020, the case was consolidated with other similar cases for discovery purposes.	**!!** **RR** ****** **##**

386. Although plaintiff did not move to remand within 30 days of removal, and may have waived thereby waived the right to move to remand based on the forum defendant rule because it is procedural rather than jurisdictional, there was a standing order barring motions to remand in cases against Ethicon and Johnson & Johnson involving hernia mesh product defect claims. Oglesby v. Ethicon, Inc., No. 3:18-cv-16079 (D.N.J. Feb. 19, 2019) (Case No. 127 in this chart).

241.	Notice of Removal & Copies of All Process & Pleadings in State Court, Steeves v. Ethicon, Inc., No. 3:19-cv-12906 (D.N.J. May 24, 2019). Plaintiffs, citizens of Georgia, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiffs alleged that defendants manufactured and supplied a defective hernia mesh patch that caused physical injury to husband and loss of consortium to wife. Plaintiffs asserted products liability claims pursuant to New Jersey law. Representing that they had not been served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By letter dated May 28, 2019, defendants requested the court to enter a consent order remanding the case. By consent order entered June 28, 2019, the case was remanded to state court (presumably because a forum defendant had been served prior to removal).	**!!** **oo** ****** **##**
	June 2019	
242.	Notice of Removal & Copies of All Process & Pleadings in State Court, Rodriguez v. Ethicon, Inc., No. 3:19-cv-14021 (D.N.J. June 20, 2019). Plaintiff, a California citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective nine-layered hernia mesh patch that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey and California law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By order entered February, 19, 2020, the case was consolidated with other similar cases for discovery purposes.	**!!** **RR** ****** **##**
243.	Notice of Removal, DeLong v. Am. Home Furnishings All., Inc., No. 2:19-cv-02766-PD (E.D. Pa. June 25, 2019). Plaintiff, a citizen of Florida, brought a wrongful death action against defendants for the death of her son sued American Home Furnishings Alliance Inc. (a North Carolina corporation with its principal place of business in North Carolina) and American Society for Testing and Materials (a Pennsylvania non-profit with its principal place of business in Pennsylvania) in state court in Pennsylvania. Plaintiff alleged that her two-year-old son's death was caused by defendants' negligent failure to promulgate reasonable "tip-over" safety standards for dressers. Defendant ASTM removed based upon diversity. It cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and represented that it had not been served. Plaintiff moved to remand. The court denied plaintiff's motion to remand by order entered August 8, 2019 relying on *Encompass*.	**xx** **$$** **RR**

244.	Notice of Removal & Copies of All Process & Pleadings in State Court, Sahil v. Ethicon, Inc., No. 3:19-cv-14304 (D.N.J. June 26, 2019). Plaintiffs, Florida citizens, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective multi-layer hernia mesh that caused physical injury to husband and loss of consortium to wife. Plaintiffs brought product liability claims pursuant to New Jersey and Florida law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By order entered February 19, 2020, the case was consolidated with other similar cases for discovery purposes.	**!!** **RR** ****** **##**
	July 2019	
245.	Notice of Removal & Copies of All Process & Pleadings in State Court, Colon v. Ethicon, Inc., No. 3:19-cv-14860 (D.N.J. July 9, 2019). Plaintiff, a Florida citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective nine-layer hernia mesh patch that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On July 10, 2019, the case was voluntarily dismissed without prejudice by plaintiff.	**!!** **RR** **%%** ****** **##**
246.	Notice of Removal & Copies of All Process & Pleadings in State Court, Alling v. Ethicon, Inc., No. 3:19-cv-14861 (D.N.J. July 9, 2019). Plaintiff, a Connecticut citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective nine-layer hernia mesh patch that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey and Connecticut law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On July 10, 2019, the case was voluntarily dismissed without prejudice by plaintiff.	**!!** **RR** **%%** ****** **##**

247.	Notice of Removal & Copies of All Process & Pleadings in State Court, Henriquez v. Ethicon, Inc., No. 3:19-cv-14862 (D.N.J. July 9, 2019). Plaintiff, a Utah citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a Proceed Surgical Mesh that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey and Utah law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By order entered July 10, 2019, the case was voluntarily dismissed by plaintiff without prejudice.	**!!** **RR** **%%** ****** **##**
248.	Notice of Removal & Copies of All Process & Pleadings in State Court, Roberts v. Ethicon, Inc., No. 3:19-cv-14863 (D.N.J. July 9, 2019). Plaintiff, an Oklahoma citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a nine-layer hernia mesh patch that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By order entered July 10, 2019, the case was voluntarily dismissed without prejudice by plaintiff.	**!!** **RR** **%%** ****** **##**
249.	Notice of Removal & Copies of All Process & Pleadings in State Court, Robinson v. Ethicon, Inc., No. 3:19-cv-15156 (D.N.J. July 11, 2019). Plaintiff, a New York citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective multi-layered hernia mesh that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By letter dated July 15, 2019, defense counsel submitted a proposed consent remand order to the court. By order entered August 5, 2019, the case was remanded to state court by consent order.	**!!** **oo** ****** **##**

250.	Notice of Removal & Copies of All Process & Pleadings, Fusco v. Howmedica Osteonics Corp., No. 2:19-cv-15040 (D.N.J. July 11, 2019). Plaintiffs, citizens of New York, sued Howmedica Osteonics Corp. and Jill and Jack Doe defendants in the Superior Court of New Jersey, Bergen County. Plaintiffs alleged that defendant manufactured a hip replacement prosthesis that was implanted in wife's hip and caused her injury. Plaintiff's husband asserted a claim for loss of consortium. Plaintiff asserted various negligence and products liability claims against Howmedica pursuant to New York and New Jersey law. Defendant Howmedica, a New Jersey corporation with its principal place of business in New Jersey, removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. On July 16, 2019, plaintiff moved to remand, asserting that it served defendant prior to removal. Defendant responded in opposition by arguing that service upon its registered agent for service of process did not constitute service for purposes of Section 1441(b)(2). On January 14, 2020, the court administratively terminated the motions to remand in eleven cases against Howmedica (including this one), pending resolution of the motion to remand in *Jackson v. Howmedica Osteonics Corp.*, No. 2:19-cv-18667 (D.N.J. Jan. 14, 2020). By order entered July 20, 2020, the case was remanded to state court.	**xx** **@@** **##** ******
251.	Notice of Removal & Copies of All Process & Pleadings, Johnson v. Howmedica Osteonics Corp., No. 2:19-cv-15078 (D.N.J. July 11, 2019). Plaintiff, a citizen of New York, sued Howmedica Osteonics Corp. and Jill and Jack Doe defendants in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendant manufactured a hip replacement prosthesis that was implanted in his hip and caused injury. Plaintiff asserted various negligence and products liability claims against Howmedica. Defendant Howmedica, a New Jersey corporation with its principal place of business in New Jersey, removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. On July 16, 2019, plaintiff moved to remand, asserting that it served defendant prior to removal. Defendant responded in opposition by arguing that service upon its registered agent for service of process did not constitute service for purposes of Section 1441(b)(2). On January 14, 2020, the court administratively terminated the motions to remand in eleven cases against Howmedica (including this one), pending resolution of the motion to remand in *Jackson v. Howmedica Osteonics Corp*., No. 2:19-cv-18667 (D.N.J. Jan. 14, 2020). By order entered July 20, 2020, the case was remanded to state court.	**xx** **@@** ****** **##**

252.	Notice of Removal & Copies of All Process & Pleadings, Wyche v. Howmedica Osteonics Corp., No. 2:19-cv-15085 (D.N.J. July 11, 2019). Plaintiff, a citizen of Maryland, sued Howmedica Osteonics Corp. and Jill and Jack Doe defendants in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendant manufactured a hip replacement prosthesis that was implanted in her hip and caused injury. Plaintiff asserted various negligence and products liability claims against Howmedica. Defendant Howmedica, a New Jersey corporation with its principal place of business in New Jersey, removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. On July 16, 2019, plaintiff moved to remand, asserting that it served defendant prior to removal. Defendant responded in opposition by arguing that service upon its registered agent for service of process did not constitute service for purposes of Section 1441(b)(2). On January 14, 2020, the court administratively terminated the motions to remand in eleven cases (including this one) against Howmedica pending resolution of the motion to remand in *Jackson v. Howmedica Osteonics Corp*., No. 2:19-cv-18667 (D.N.J. Jan. 14, 2020). By order entered July 20, 2020, the case was remanded to state court.	**xx** **@@** ****** **##**
253.	Notice of Removal & Copies of All Process & Pleadings, Shafer-Jones v. Howmedica Osteonics Corp., No. 2:19-cv-15111 (D.N.J. July 11, 2019). Plaintiffs, citizens of California, sued Howmedica Osteonics Corp. and Jill and Jack Doe defendants in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendant manufactured a hip replacement prosthesis that was implanted in plaintiff's hip and caused injury. Plaintiff asserted various negligence and products liability claims against Howmedica Plaintiff's spouse asserted a claim for loss of consortium. Defendant Howmedica, a New Jersey corporation with its principal place of business in New Jersey, removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. On July 17, 2019, plaintiff moved to remand, asserting that it served defendant prior to removal. Defendant responded in opposition by arguing that service upon its registered agent for service of process did not constitute service for purposes of Section 1441(b)(2). On January 14, 2020, the court administratively terminated the motions to remand in eleven cases against Howmedica (including this one), pending resolution of the motion to remand in *Jackson v. Howmedica Osteonics Corp*., No. 2:19-cv-18667 (D.N.J. Jan. 14, 2020). By order entered July 20, 2020, the case was remanded to state court.	**xx** **@@** ****** **##**

254.	Notice of Removal & Copies of All Process & Pleadings, McCracken v. Howmedica Osteonics Corp., No. 2:19-cv-15137 (D.N.J. July 11, 2019). Plaintiff, a citizen of Michigan, sued Howmedica Osteonics Corp. and Jill and Jack Doe defendants in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendant manufactured a hip replacement prosthesis that was implanted in her hip and caused injury. Plaintiff asserted various negligence and products liability claims against Howmedica. Defendant Howmedica, a New Jersey corporation with its principal place of business in New Jersey, removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. On July 17, 2019, plaintiff moved to remand, asserting that it served defendant prior to removal. Defendant responded in opposition by arguing that service upon its registered agent for service of process did not constitute service for purposes of Section 1441(b)(2). On January 14, 2020, the court administratively terminated the motions to remand in eleven cases against Howmedica (including this one), pending resolution of the motion to remand in *Jackson v. Howmedica Osteonics Corp*., No. 2:19-cv-18667 (D.N.J. Jan. 14, 2020). By order entered July 20, 2020, the case was remanded to state court.	**xx** **@@** ****** **##**
255.	Notice of Removal & Copies of All Process & Pleadings, D'Alessandro v. Howmedica Osteonics Corp., No. 2:19-cv-15147 (D.N.J. July 11, 2019). Plaintiffs, citizen of Pennsylvania, sued Howmedica Osteonics Corp. and Jill and Jack Doe defendants in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendant manufactured a hip replacement prosthesis that was implanted in his hip and caused injury. Plaintiff asserted various negligence and products liability claims against Howmedica. Plaintiff's wife sued for loss of consortium. Defendant Howmedica, a New Jersey corporation with its principal place of business in New Jersey, removed before based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. On July 17, 2019, plaintiff moved to remand, asserting that it served defendant prior to removal. Defendant responded in opposition by arguing that service upon its registered agent for service of process did not constitute service for purposes of Section 1441(b)(2). On January 14, 2020, the court administratively terminated the motions to remand in eleven cases against Howmedica (including this one), pending resolution of the motion to remand in *Jackson v. Howmedica Osteonics Corp*., No. 2:19-cv-18667 (D.N.J. Jan. 14, 2020). By order entered July 20, 2020, the case was remanded to state court.	**xx** **@@** ****** **##**

256.	Notice of Removal & Copies of All Process & Pleadings, Wolfe v. Howmedica Osteonics Corp., No. 2:19-cv-15152 (D.N.J. July 11, 2019). Plaintiff, a citizen of Colorado, sued Howmedica Osteonics Corp. and Jill and Jack Doe defendants in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendant manufactured a hip replacement prosthesis that was implanted in her hip and caused injury. Plaintiff asserted various negligence and products liability claims against Howmedica. Defendant Howmedica, a New Jersey corporation with its principal place of business in New Jersey, removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. On July 17, 2019, plaintiff moved to remand, asserting that it served defendant prior to removal. Defendant responded in opposition by arguing that service upon its registered agent for service of process did not constitute service for purposes of Section 1441(b)(2). On January 14, 2020, the court administratively terminated the motions to remand in eleven cases against Howmedica (including this one), pending resolution of the motion to remand in *Jackson v. Howmedica Osteonics Corp*., No. 2:19-cv-18667 (D.N.J. Jan. 14, 2020). By order entered July 20, 2020, the case was remanded to state court.	**xx** **@@** ****** **##**
257.	Notice of Removal & Copies of All Process & Pleadings in State Court, Cummings v. Ethicon, Inc., No. 3:19-cv-15402 (D.N.J. July 16, 2019). Plaintiff, a California citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective proceed surgical mesh patch that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Before being served, defendants removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On August 2, 2019, plaintiff voluntarily dismissed without prejudice. [Note: This case was refiled a second time in federal court. *See* Case No. 271.]	**!!** **RR** **%%** ****** **##**

258.	Notice of Removal, Garnes v. Zhejiang Huahai Pharm. Co., No. 1:19-cv-15429 (D.N.J. July 16, 2019). Plaintiff daughter, a citizen of Louisiana, brought a wrongful death action for the death of her father (who had been a Louisiana citizen) against defendants in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that her father ingested contaminated Valsartan, which caused renal cell carcinoma of the right kidney. Defendants manufactured, marketed and distributed Valsartan (a generic of Diovan), which is used to treat high blood pressure. Plaintiff asserted various products liability claims. Defendant Zhejiang Huahai Pharmaceutical Co., Ltd. is a Chinese corporation with its principal place of business in China. Defendant Prinston Pharmaceutical Inc. is a Delaware corporation with its principal place of business in New Jersey. Defendant Solco Healthcare US, LLC is a Delaware corporation with its principal place of business in New Jersey. Defendant Huahai US., Inc. is a New Jersey corporation with its principal place of business in New Jersey. Defendants removed based on diversity, asserting that the forum defendants had not been served. By order entered July 31, 2019, the case was remanded to state court by consent (presumably because a forum defendant had been served).	**!!** **oo**
259.	Notice of Removal, Kane v. Toll Bros., Inc., No. 2:19-cv-15513 (D.N.J. July 17, 2019). Plaintiff, a citizen of Florida, sued Toll Brothers, Inc., a Delaware corporation with its principal place of business in Pennsylvania, Leanne Barbosa-Nicholas, a citizen of New Jersey, and Patrick Galligan, a citizen of Pennsylvania, in the Superior Court of New Jersey, Hudson County. Plaintiff asserted various employment discrimination claims pursuant to New Jersey statutory law. Before being served, Defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On October 16, 2019, plaintiff voluntarily dismissed without prejudice.	**!!** **RR** **##** **^^**
260.	Notice of Removal, Spates v. Bayer Corp., No. 2:19-cv-15709-ES-CLW (D.N.J. July 23, 2019). Plaintiff, a citizen of Texas, sued Bayer Corp. (an Indiana corporation with its principal place of business in New Jersey), Bayer HealthCare Pharmaceuticals Inc. (a Delaware corporation with its principal place of business in New Jersey), Defendant Merck & Co. (a New Jersey corporation with its principal place of business in New Jersey) and other foreign defendants in the Superior Court of New Jersey, Morris County. Plaintiff alleged that the drug Avelox was defective and caused her husband's death. Plaintiff based some of her claims upon New Jersey law. The forum defendants removed based on diversity, representing that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The case was dismissed without prejudice by stipulation of all parties on April 7, 2020 (after some defendants had answered).	**!!** **RR** **##**

261.	Notice of Removal & Copies of All Process & Pleadings in State Court, Dowling v. Ethicon, Inc., No. 3:19-cv-15729 (D.N.J. July 23, 2019). Plaintiff, an Indiana citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective multi-layered hernia mesh patch that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey and Indiana state law. Defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that they had not been served. The case was remanded by consent order dated August 5, 2019 (presumably because a forum defendant was served prior to removal).	**!!** **oo** ****** **##**
262.	Notice of Removal & Copies of All Process & Pleadings in State Court, Copeland-James v. Ethicon, Inc., No. 3:19-cv-15753 (D.N.J. July 24, 2019). Plaintiff, a Virginia citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective nine-layer hernia mesh patch that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By order entered February 19, 2020, the case was consolidated with other similar cases for discovery purposes.	**!!** **RR** ****** **##**
263.	Notice of Removal & Copies of All Process & Pleadings in State Court, Corkern v. Ethicon, Inc., No. 3:19-cv-15754 (D.N.J. July 24, 2019). Plaintiff, a Louisiana citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective nine-layer hernia mesh patch that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By order entered February 19, 2020, the case was consolidated with other similar cases for discovery purposes.	**!!** **RR** ****** **##**

264.	Notice of Removal & Copies of All Process & Pleadings in State Court, Howard v. Ethicon, Inc., No. 3:19-cv-15792 (D.N.J. July 25, 2019). Plaintiff, a Michigan citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a nine-layer hernia mesh patch that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey and Michigan law. Defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting they had not been served. On August 20, 2019, plaintiff moved for leave to file a motion to remand arguing that the forum defendants had been served prior to removal and asserting that sanctions should be awarded because defendants refused to consent to remand.[387] The case was remanded by consent order dated September 4, 2019 (presumably because a forum defendant was served prior to removal).	**xx** **MM** ****** **##**
265.	Notice of Removal & Copies of All Process & Pleadings in State Court, Dodge v. Ethicon, Inc., No. 3:19-cv-15796 (D.N.J. July 25, 2019). Plaintiff, an Illinois citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective nine-layer hernia mesh patch that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey and Illinois law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The case was dismissed with prejudice by stipulation on August 22, 2019.	**!!** **RR** ****** **##**

387. Pursuant to an order entered in *Oglesby v. Ethicon Inc.*, No. 3:18-cv-16079-FLW-DEA (D.N.J. Feb. 19, 2019)—Case No. 127 in this chart—the court administratively terminated all motions to remand filed in certain cases against Ethicon and Johnson & Johnson, and directed the parties to submit briefs in representative cases. The court ruled on the motions to remand in the representative cases in *Dutton v. Ethicon, Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019). By its terms, the February 19, 2019 order barred motions to remand in similar future cases against Ethicon and Johnson & Johnson.

266.	Notice of Removal & Copies of All Process & Pleadings in State Court, Gonzalez v. Ethicon, Inc., No. 3:19-cv-15797 (D.N.J. July 25, 2019). Plaintiff, a New York citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective nine-layer hernia mesh patch that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey and New York law. Defendants removed based on diversity, asserting that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff moved to remand, arguing that defendants removed the case after being served. Defendants withdrew the Notice of Appeal. The case was remanded by consent order on September 4, 2019.	**xx** **MM** ****** **##**
	August 2019	
267.	Notice of Removal & Copies of All Process & Pleadings, Knudsen v. Howmedica Osteonics Corp., No. 2:19-cv-16687-KM-ESK (D.N.J. Aug. 14, 2019). Plaintiff, a citizen of Virginia, sued Howmedica Osteonics Corp. and Jill and Jack Doe defendants in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendant manufactured a hip replacement prosthesis that was implanted in his hip and caused injury. Plaintiff asserted various negligence and products liability claims against Howmedica. Plaintiff asserted that Virginia law controlled some claims, that New Jersey law controlled other claims and was silent regarding the controlling law with respect to other claims. Defendant Howmedica, a New Jersey corporation with its principal place of business in New Jersey, removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. By consent order dated August 19, 2019, the case was remanded to state court (presumably because forum defendant was served prior to removal).	**!!** **oo** ****** **##**

268.	Notice of Removal & Copies of All Process & Pleadings, Benton v. Howmedica Osteonics Corp., No. 2:19-cv-16690 (D.N.J. Aug. 14, 2019). Plaintiff, a citizen of Texas, sued Howmedica Osteonics Corp. and Jill and Jack Doe defendants in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendant manufactured a hip replacement prosthesis that was implanted in her hip and caused injury. Plaintiff asserted various negligence and products liability claims against Howmedica. Plaintiff asserted that Texas law controlled some claims, that New Jersey law controlled other claims and was silent regarding the controlling law with respect to other claims. Defendant Howmedica, a New Jersey corporation with its principal place of business in New Jersey, removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. By consent order dated August 19, 2019, the case was remanded to state court (presumably because forum defendant was served prior to removal).	**!!** **oo** ****** **##**
269.	Notice of Removal & Copies of All Process & Pleadings, Clark v. Howmedica Osteonics Corp., No. 2:19-cv-16696 (D.N.J. Aug. 14, 2019). Plaintiff, a citizen of Colorado, sued Howmedica Osteonics Corp. and Jill and Jack Doe defendants in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendant manufactured a hip replacement prosthesis that was implanted in her hip and caused injury. Plaintiff asserted various negligence and products liability claims against Howmedica. Plaintiff asserted that Colorado law controlled some claims, that New Jersey law controlled other claims and was silent regarding the controlling law with respect to other claims. Defendant Howmedica, a New Jersey corporation with its principal place of business in New Jersey, removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. By consent order dated August 19, 2019, the case was remanded to state court (presumably because forum defendant was served prior to removal).	**!!** **oo** ****** **##**
270.	Notice of Removal & Copies of All Process & Pleadings in State Court, Hawkins v. Ethicon, Inc., No. 3:19-cv-16714 (D.N.J. Aug. 15, 2019). Plaintiff, a Delaware citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective Ethicon Barrier Hernia Mesh that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By order entered February 19, 2020, this case was consolidated with similar cases for purposes of discovery.	**!!** **RR** ****** **##**

271.	Notice of Removal & Copies of All Process & Pleadings in State Court, Cummings v. Ethicon, Inc., No. 3:19-cv-16715 (D.N.J. Aug. 15, 2019). Plaintiff, a California citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective procedural surgical mesh patch that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that they had not been served. By order entered October 29, 2019, the case was remanded by consent (presumably because a forum defendant had been served prior to service).[388] [Note: This case was previously removed and voluntarily dismissed without prejudice. *See* Case No. 257.]	**!!** **oo** ****** **##**
272.	Notice of Removal & Copies of All Process & Pleadings in State Court, Tjardes v. Ethicon, Inc., No. 3:19-cv-16716 (D.N.J. Aug. 15, 2019). Plaintiff, an Illinois citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective barrier hernia mesh that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that they had not been served. By order entered September 11, 2019, the case was remanded by consent (presumably because a forum defendant had been served prior to removal).	**!!** **oo** ****** **##**

388. Pursuant to an order entered in *Oglesby v. Ethicon, Inc.*, No. 3:18-cv-16079 (D.N.J. Feb. 19, 2019)—Case No. 127 in this chart—the court administratively terminated all motions to remand filed in certain cases against Ethicon and Johnson & Johnson, and directed the parties to submit briefs in representative cases. The court ruled on the motions to remand in the representative cases in *Dutton v. Ethicon, Inc.*, 423 F. Supp. 3d 81 (D.N.J. 2019). By its terms, the February 19, 2019 order barred motions to remand in similar future cases against Ethicon and Johnson & Johnson. Although plaintiff did not move for remand within 30 days of removal, plaintiff was barred from doing so.

273.	Notice of Removal, Brown v. Teva Pharms. USA, Inc., No. 2:19-cv-03700-HB (E.D. Pa. Aug. 16, 2019). Plaintiff, a citizen of Florida, sued Teva Pharmaceuticals USA, Inc., Teva Women's Health, Inc., Duramed Pharmaceuticals. Inc., and Teva Women's Health LLC in the Court of Common Pleas, Philadelphia County, Pennsylvania. Plaintiff alleged that when a ParaGard IUD was removed an arm was missing and became imbedded in her uterine wall causing her injury. Plaintiff brought various tort claims and also alleged that defendants violated Pennsylvania consumer protection statutes. Defendants removed based on diversity, arguing that one forum defendant, Teva Pharmaceuticals USA, Inc. (a citizen of Pennsylvania), was fraudulently joined and asserting that another forum defendant, Teva Women's Health, LLC (a citizen of Pennsylvania), had not been served. Plaintiff moved to remand, arguing that removal was not complete before service on the forum defendant because the notice had not been served on the Philadelphia County Clerk. By order entered October 23, 2019, the case was remanded to state court. The court reasoned "While defendants filed the notice of removal in the federal court before being served with the complaint, they filed a copy of the notice of removal in the state court after they were served. Removal was not completed when defendants were served. Consequently, defendants' reliance on *Encompass* is unavailing. Timing was everything, and plaintiff has won the race." Brown v. Teva Pharmaceuticals, Inc., 414 F.Supp. 3d 738, 741 (E.D. Pa 2019).	**xx** **@@** **##**
274.	Notice of Removal & Copies of All Process & Pleadings in State Court, Southwell v. Ethicon, Inc., No. 3:19-cv-16843 (D.N.J. Aug. 19, 2019). Plaintiff, a New York citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective hernia surgical mesh that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey and New York law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By order entered February 19, 2020, this case was consolidated with similar cases for purposes of discovery.	**!!** **RR** ****** **##**

275.	Notice of Removal, Belot v. Rite Aid Corp., No. 3:19-cv-17368 (D.N.J. Aug. 28, 2019). Plaintiff, a citizen of New Jersey, sued defendant Rite Aid Corp., a Delaware corporation with its principal place of business in Pennsylvania, for wrongful discharge in violation of New Jersey state law in the Superior Court of New Jersey, Monmouth County. Plaintiff also named Maria Rosa, his shift manager at the Neptune, New Jersey Rite Aid store, as a defendant. Rite Aid alleged that removal was proper based upon diversity because Defendant Maria Rosa had not been properly joined and served at the time of removal, citing Section 1441(b)(2). Defendant Rite Aid did not allege Rosa's citizenship or assert that she had been fraudulently joined. Defendant Rite Aid later informed the court that Maria Rosa was a citizen of New Jersey and requested remand due to the lack of complete diversity. The case was remanded by order entered November 8, 2019.	**!!** **hh** **##** **^^**
	September 2019	
276.	Notice of Removal & Copies of All Process & Pleadings in State Court, Jacques v. Ethicon, Inc., No. 3:19-cv-17790 (D.N.J. Sept. 10, 2019). Plaintiff, a California citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective multi-layered hernia mesh that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By order entered February 19, 2020, this case was consolidated with similar cases for purposes of discovery.	**!!** **RR** ****** **##**
277.	Notice of Removal & Copies of All Process & Pleadings in State Court, Soto v. Ethicon, Inc., No. 3:19-cv-17799 (D.N.J. Sept. 10, 2019). Plaintiff, a Florida citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective multi-layered hernia mesh that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By order entered February 19, 2020, this case was consolidated with similar cases for purposes of discovery.	**!!** **RR** ****** **##**

278.	Notice of Removal & Copies of All Process & Pleadings in State Court, Russo v. Ethicon, Inc., No. 3:19-cv-17804 (D.N.J. Sept. 10, 2019). Plaintiff, a New York citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective multi-layered hernia mesh that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On September 11, 2019, plaintiff voluntarily dismissed the case without prejudice.	**!!** **RR** **%%** ****** **##**
279.	Notice of Removal & Copies of All Process & Pleadings, Brown v. Howmedica Osteonics Corp., No. 2:19-cv-17984 (D.N.J. Sept. 13, 2019). Plaintiffs, citizens of Alabama, sued Howmedica Osteonics Corp. and Jill and Jack Doe defendants in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendant manufactured a hip replacement prosthesis that was implanted in husband's hip, causing physical injury to husband and loss of consortium to wife. Plaintiffs asserted various negligence and products liability claims against Howmedica. Plaintiffs asserted that Alabama law controlled some claims, that New Jersey law controlled other claims and was silent regarding the controlling law with respect to other claims. Defendant Howmedica, a New Jersey corporation with its principal place of business in New Jersey, removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. On October 11, 2019, plaintiff moved to remand, asserting that even though defendant evaded service of process at corporate headquarters, plaintiff served defendant's registered agent for service of process prior to removal. Defendant responded in opposition by arguing that service upon its registered agent for service of process did not constitute service for purposes of Section 1441(b)(2) and also arguing that *Encompass* authorized purposeful evasion of service. On January 14, 2020, the court administratively terminated the motions to remand in eleven cases against Howmedica (including this one), pending resolution of the motion to remand in *Jackson v. Howmedica Osteonics Corp.*, No. 2:19-cv-18667 (D.N.J. Jan. 14, 2020). By order entered July 20, 2020, the case was remanded to state court.	**xx** **@@** ****** **##** **&&**

280.	Notice of Removal & Copies of All Process & Pleadings, Ward v. Howmedica Osteonics Corp., No. 2:19-cv-17986 (D.N.J. Sept. 13, 2019). Plaintiff, a citizen of Alabama, sued Howmedica Osteonics Corp. and Jill and Jack Doe defendants in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendant manufactured a hip replacement prosthesis that was implanted in her hip and caused injury. Plaintiff asserted various negligence and products liability claims against Howmedica. Plaintiff asserted that Alabama law controlled some claims, that New Jersey law controlled other claims and was silent regarding the controlling law with respect to other claims. Defendant Howmedica, a New Jersey corporation with its principal place of business in New Jersey, removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. On October. 11, 2019, plaintiff moved to remand, asserting that even though defendant evaded service of process, it served defendant's registered agent for service of process prior to removal. Defendant responded in opposition by arguing that service upon its registered agent for service of process did not constitute service for purposes of Section 1441(b)(2) and also arguing that *Encompass* authorized purposeful evasion of service. On January. 14, 2020, the court administratively terminated the motions to remand in eleven cases against Howmedica (including this one), pending resolution of the motion to remand in *Jackson v. Howmedica Osteonics Corp*., No. 2:19-cv-18667 (D.N.J. Jan. 14, 2020). By order entered July 20, 2020, the case was remanded to state court.	**xx** **@@** ****** **##** **&&**
281.	Notice of Removal & Copies of All Process & Pleadings in State Court, Ellis v. Ethicon, Inc., No. 3:19-cv-18114 (D.N.J. Sept. 19, 2019). Plaintiff, an Indiana citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused him injury. Plaintiff asserted products liability pursuant to New Jersey and other state law. Defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting they had not been served. By consent order entered November 4, 2019, the case was remanded to state court (presumably because a forum defendant was served prior to removal).	**!!** **oo** ****** **##**

282.	Notice of Removal & Copies of All Process & Pleadings in State Court, Minor v. Ethicon, Inc., No. 3:19-cv-18119 (D.N.J. Sept. 19, 2019). Plaintiffs, Missouri citizens, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused him injury. Plaintiff asserted products liability claims and plaintiff's wife asserted a claim for loss of consortium. Before being served, defendants removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By order entered February 19, 2020, this case was consolidated with similar cases for purposes of discovery.	**!!** **RR** ****** **##**
283.	Notice of Removal to Adverse Party and State Court, Albertson v. Harley-Davidson Motor Co., No. 2:19-cv-04396-GEKP (E.D. Pa. Sept. 23, 2019). Plaintiff sued defendants in state court in Pennsylvania, alleging that a defective motorcycle caused her husband's death. Defendants removed. Plaintiff moved to remand, arguing that complete diversity was lacking because plaintiff and defendant Harley-Davidson Motor Co. are citizens of Pennsylvania. On October 4, 2019. Defendant Harley-Davidson Motor Co. Inc. stipulated to remand, admitting that it had misinterpreted *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), as only requiring complete diversity among all properly joined and served defendants.	**xx** **kk**
284.	Notice of Removal and Copies of All Process and Pleadings in State Court, Pitman v. Ethicon, Inc., No. 3:19-cv-18263 (D.N.J. Sept. 24, 2019). Plaintiff, a citizen of Indiana, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective multi-layered hernia mesh that caused him injury. Plaintiff asserted products liability pursuant to New Jersey and Indiana law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By order entered February 19, 2020, this case was consolidated with similar cases for purposes of discovery.	**!!** **RR** ****** **##**

October 2019		
285.	Notice of Removal and Copies of All Process and Pleadings in State Court, Miller v. Ethicon, Inc., No. 3:19-cv-18606 (D.N.J. Oct. 2, 2019). Miller, an Oregon citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective multi-layered hernia mesh that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By order entered February 19, 2020, this case was consolidated with similar cases for purposes of discovery.	**!!** **RR** ****** **##**
286.	Notice of Removal and Copies of All Process and Pleadings in State Court, Shafer v. Ethicon, Inc., No. 3:19-cv-18637 (D.N.J. Oct. 2, 2019). Shafer, a Michigan citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective multi-layered hernia mesh that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey and Michigan law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By order entered February 19, 2020, this case was consolidated with similar cases for purposes of discovery.	**!!** **RR** ****** **##**
287.	Notice of Removal and Copies of All Process and Pleadings in State Court, Orsini v. Ethicon, Inc., No. 3:19-cv-18640 (D.N.J. Oct. 2, 2019). Orsini, a South Carolina citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective multi-layered hernia mesh that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey and South Carolina law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By order entered February 19, 2020, this case was consolidated with similar cases for purposes of discovery.	**!!** **RR** ****** **##**

288.	Notice of Removal & Copies of All Process & Pleadings in State Court, Page v. Ethicon, Inc., No. 3:19-cv-18642 (D.N.J. Oct. 2, 2019). Page, an Illinois citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective multi-layered hernia mesh that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By order entered February 19, 2020, this case was consolidated with similar cases for purposes of discovery.	**!!** **RR** ****** **##**
289.	Notice of Removal & Copies of All Process & Pleadings in State Court, Gillenwater v. Ethicon, Inc., No. 3:19-cv-18643 (D.N.J. Oct. 2, 2019). Gillenwater, a Virginia citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh patch that caused him injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Before being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By order entered February 19, 2020, this case was consolidated with similar cases for purposes of discovery.	**!!** **RR** ****** **##**

290.	Notice of Removal & Copies of All Process & Pleadings, Gorman v. Howmedica Osteonics Corp., No. 2:19-cv-18665 (D.N.J. Oct. 3, 2019). Plaintiff, citizens of Texas, sued Howmedica Osteonics Corp. and Jill and Jack Doe defendants in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendant manufactured a hip replacement prosthesis that was implanted in her hip and caused injury. Plaintiff asserted various negligence and products liability claims against Howmedica. Plaintiff asserted that Texas law controlled some claims, that New Jersey law controlled other claims and was silent regarding the controlling law with respect to other claims. Defendant Howmedica, a New Jersey corporation with its principal place of business in New Jersey, removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On November 2, 2019, plaintiff moved to remand, asserting that even though defendant evaded service of process of process at corporate headquarters, plaintiff served defendant's registered agent for service of process prior to removal. Defendant responded in opposition by arguing that service upon its registered agent for service of process did not constitute service for purposes of Section 1441(b)(2) and also argued that *Encompass* authorized purposeful evasion of service. On January 14, 2020, the court administratively terminated the motions to remand in eleven cases against Howmedica (including this one), pending resolution of the motion to remand in *Jackson v. Howmedica Osteonics Corp*., No. 2:19-cv-18667 (D.N.J. Jan. 14, 2020). By order entered July 20, 2020, the case was remanded to state court.	**xx** **@@** ****** **##** **&&**

291.	Notice of Removal & Copies of All Process & Pleadings, Jackson v. Howmedica Osteonics Corp., No. 2:19-cv-18667 (D.N.J. Oct. 3, 2019). Plaintiff, a citizen of Ohio, sued Howmedica Osteonics Corp. and Jill and Jack Doe defendants in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendant manufactured a hip replacement prosthesis that was implanted in her hip and caused injury. Plaintiff asserted various negligence and products liability claims against Howmedica. Plaintiff asserted that Ohio law controlled some claims, that New Jersey law controlled other claims and was silent regarding the controlling law with respect to other claims. Defendant Howmedica, a New Jersey corporation with its principal place of business in New Jersey, removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. On November 2, 2019, plaintiff moved to remand, asserting that even though defendant evaded service of process at corporate headquarters, plaintiff served defendant's registered agent for service of process prior to removal. Defendant responded in opposition by arguing that service upon its registered agent for service of process did not constitute service for purposes of Section 1441(b)(2) and also arguing that *Encompass* authorized purposeful evasion of service. On January 14, 2020, the court administratively terminated the motions to remand in eleven cases against Howmedica pending resolution of the motion to remand in this case (*Jackson v. Howmedica Osteonics Corp*., No. 2:19-cv-18667, 2020 WL 4188165, at *1–2 (D.N.J. July 20, 2020)). By order entered July 20, 2020, the case was remanded to state court. *Id.*	**xx** **@@** ****** **##** **&&**
292.	Notice of Removal & Copies of All Process & Pleadings in State Court, Karasik v. Ethicon, Inc., No. 3:19-cv-19118 (D.N.J. Oct. 18, 2019). Plaintiffs, citizens of New York, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective hernia mesh that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey law. Plaintiff's husband asserted a claim for loss of consortium. Defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that they had not been served. By letter dated October 22, 2019, Defendants requested the court remand. By consent order entered November 22, 2019, the case was remanded to state court (presumably because a forum defendant had been served prior to removal).	**!!** **oo** ****** **##**

293.	Notice of Removal & Copies of All Process & Pleadings in State Court, Woolwine v. Ethicon, Inc., No. 3:19-cv-19250 (D.N.J. Oct. 23, 2019). Plaintiff, a Virginia citizen, sued Ethicon, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey) in the Superior Court of New Jersey, Atlantic County. Plaintiff alleged that defendants manufactured and supplied a defective multi-layered hernia mesh that caused her injury. Plaintiff asserted products liability claims pursuant to New Jersey law and Virginia law. Defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that they had not been served. By letter dated October 25, 2019, Defendants requested the court remand. By consent order entered October 29, 2019, the case was remanded to state court (presumably because a forum defendant had been served prior to removal).	**!!** **oo** ****** **##**
294.	Notice of Removal & Copies of All Process & Pleadings, Kennedy v. Howmedica Osteonics Corp., No. 2:19-cv-19304 (D.N.J. Oct. 24, 2019). Plaintiff, a citizen of Utah, sued Howmedica Osteonics Corp. and Jill and Jack Doe defendants in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendant manufactured a hip replacement prosthesis that was implanted in her hip and caused injury. Plaintiff asserted various negligence and products liability claims against Howmedica. Plaintiff asserted that Utah law controlled some claims, that New Jersey law controlled other claims and was silent regarding the controlling law with respect to other claims. Defendant Howmedica, a New Jersey corporation with its principal place of business in New Jersey, removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. On November 23, 2019, plaintiff moved to remand, asserting that even though defendant evaded service of process at its corporate headquarters, plaintiff served defendant's registered agent for service of process prior to removal. Defendant responded in opposition by arguing that service upon its registered agent for service of process did not constitute service for purposes of Section 1441(b)(2) and also arguing that *Encompass* authorized purposeful evasion of service. On January 14, 2020, the court administratively terminated the motions to remand in eleven cases against Howmedica (including this one), pending resolution of the motion to remand in *Jackson v. Howmedica Osteonics Corp.*, No. 2:19-cv-18667, 2020 WL 4188165, at *1–2 (D.N.J. July 20, 2020). By order entered July 20, 2020, the case was remanded to state court. *Id.*	**xx** **@@** ****** **##** **&&**

295.	Notice of Removal & Copies of All Process & Pleadings, Ellison v. Howmedica Osteonics Corp., No. 2:19-cv-19360 (D.N.J. Oct. 25, 2019). Plaintiff, a citizen of Texas, sued Howmedica Osteonics Corp. and Jill and Jack Doe defendants in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendant manufactured a hip replacement prosthesis that was implanted in his hip and caused injury. Plaintiff asserted various negligence and products liability claims against Howmedica. Plaintiff asserted that Texas law controlled some claims, that New Jersey law controlled other claims and was silent regarding the controlling law with respect to other claims. Defendant Howmedica, a New Jersey corporation with its principal place of business in New Jersey, removed before being served, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). By order entered October 28, 2019, plaintiff voluntarily dismissed the case without prejudice.	**!!** **RR** **%%** ****** **##**
November 2019		
296.	Notice of Removal, Glass v. United Parcel Serv., No. 1:19-cv-19839 (D.N.J. Nov. 4, 2019). Plaintiff, a citizen of Pennsylvania, sued United Parcel Service, UPS Mail Innovations, Inc. and several John Doe Defendants in the Superior Court of New Jersey, Camden County. Plaintiff amended his complaint in state court by adding additional defendants (Material Handling Systems, Inc., Staffmark Group, Xfinity Staffing Solutions LLC, Lyneer Staffing Solutions LLC, Manpower Group, Allied Universal Security Services and SDI Industries, Inc). Plaintiff alleged that he was working at a UPS package distribution center in New Jersey clearing out packages from a motor cage when the conveyor suddenly energized and crushed his arm. Plaintiff brought negligence and product liability claims. Defendants UPS, UPS Mail Innovations, Inc. and Material Handling Systems, Inc. removed based on diversity, asserting that no other defendants (many of whom plaintiff alleged were located in New Jersey) had been served. The removing defendants cited the District of New Jersey's plain language application of 28 U.SC. §1441(b)(2). Plaintiff did not move to remand.	**!!** **RR**
297.	Notice of Removal of Defendant Cyprus Mines Corp., Cagle v. Cyprus Mines Corp., No. 3:19-cv-20008-BRM-ZNQ (D.N.J. Nov. 8, 2019). Plaintiff, a citizen of Tennessee, sued defendants in the Superior Court of New Jersey, Middlesex Cunty, alleging that she developed mesothelioma as a result of using Johnson & Johnson's talc baby powder. Defendant Cyprus Mines Corp. removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018) and alleging that the forum defendants (Johnson & Johnson and Johnson & Johnson Consumer Companies, Inc.) had not been served. By consent order entered November 14, 2019, the case was remanded to state court. Cyprus Mines Corp. had removed after the Johnson & Johnson defendants were served.	**!!** **oo**
December 2019		

298.	Notice of Removal, Ferreri v. Bayer Corp., No. 2:19-cv-21295-ES-CLW (D.N.J. Dec. 11, 2019). Plaintiff, a citizen of New York, sued Bayer Corp. (an Indiana corporation with its principal place of business in New Jersey), Bayer HealthCare Pharmaceuticals Inc. (a Delaware corporation with its principal place of business in New Jersey), Merck & Co. (a New Jersey corporation with its principal place of business in New Jersey) and other foreign defendants in the Superior Court of New Jersey, Morris County. Plaintiff alleged that the drug Avelox was defective and caused her injury. The forum defendants removed based on diversity, representing that they had not been served and citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On April 6, 2020, plaintiff voluntarily dismissed her claims without prejudice but agreed that if she refiled, she would do so in federal court in New Jersey.	**!!** **RR**
	January 2020	
299.	Notice of Removal, Garfield v. Hankowsky, No. 1:20-cv-00027-JEJ (M.D. Pa. Jan. 7, 2020). Plaintiff, a citizen of Florida, sued several defendants for breach of fiduciary duty pursuant to Maryland law in state court in Pennsylvania. Defendant Liberty Property Trust, a citizen of Pennsylvania, removed based on diversity. It alleged that no forum defendants had been served and cited *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On January 20, 2020, plaintiff dismissed his claims with prejudice.	**!!** **RR** **^^**
300.	Notice of Removal & Copies of All Process & Pleadings, Wygle v. Howmedica Osteonics Corp., No. 2:20-cv-00549 (D.N.J. Jan. 16, 2020). Plaintiffs, citizens of Iowa, sued Howmedica Osteonics Corp. and Jill and Jack Doe defendants in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendant manufactured a hip replacement prosthesis that was implanted in her hip and caused injury. Plaintiff asserted various negligence and products liability claims against Howmedica. Plaintiff's husband asserted a claim for loss of consortium. Plaintiffs asserted that Iowa law controlled some claims, that New Jersey law controlled other claims and was silent regarding the controlling law with respect to other claims. Defendant Howmedica, a New Jersey corporation with its principal place of business in New Jersey, removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. On January 17, 2020, plaintiff moved to remand, asserting that plaintiff asserting that even though defendant evaded service of process at its corporate headquarters, plaintiff served defendant's registered agent for service of process prior to removal. Defendant responded in opposition by arguing that service upon its registered agent for service of process did not constitute service for purposes of Section 1441(b)(2) and also arguing that *Encompass* authorized purposeful evasion of service. By order entered July 20, 2020, the case was remanded to state court.	**xx** **@@** ****** **##** **&&**

301.	Notice of Removal of Defendant Cyprus Amax Minerals Co., Carballo v. Johnson & Johnson, Inc., No. 3:20-cv-00636-AET-LHG (D.N.J. Jan. 17, 2020). Plaintiff sued Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), Johnson & Johnson Consumer, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and other defendants in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that she developed mesothelioma as the result of using Johnson & Johnson's and Mary Kay's talc powder. A non-forum defendant removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that no defendants had been served. On January 21, 2020, plaintiff gave notice of voluntary dismissal without prejudice. [Note: This case was refiled again. See Case No. 309.]	**!!** **RR** **%%**
302.	Notice of Removal, Slater v. Greater Newark Convention Visitors Bureau, No. 2:20-cv-00664 (D.N.J. Jan. 20, 2020). Plaintiff, a citizen of Maryland, sued the Greater Newark Convention Visitors Bureau, a New Jersey citizen, in the Superior Court of New Jersey, Essex County. Plaintiff alleged wrongful termination (retaliation in response to her reporting sexual harassment in the workplace) and IIED pursuant to New Jersey law. Defendant learned of the complaint through a third-party reporting service. Defendant removed based on diversity before it was served, citing 28 U.S.C. § 1441(b)(2). No motion to remand was filed.	**!!** **RR** ****** **##** **^^**
303.	Notice of Removal & Copies of All Process & Pleadings, Brancati v. Howmedica Osteonics Corp., No. 2:20-cv-00704 (D.N.J. Jan. 22, 2020). Plaintiff, a citizen of Colorado, sued Howmedica Osteonics Corp. and Jill and Jack Doe defendants in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendant manufactured a hip replacement prosthesis that was implanted in his hip and caused injury. Plaintiff asserted that Colorado law controlled some claims, that New Jersey law controlled other claims and was silent regarding the controlling law with respect to other claims. Plaintiff asserted various negligence and products liability claims against Howmedica. Defendant Howmedica, a New Jersey corporation with its principal place of business in New Jersey, removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. On January 22, 2020, plaintiff moved to remand, asserting that although defendant evaded service of process at corporate headquarters, plaintiff served defendant's registered agent for service of process prior to removal. Defendant responded in opposition by arguing that service upon its registered agent for service of process did not constitute service for purposes of Section 1441(b)(2) and also arguing that *Encompass* authorized purposeful evasion of service. By order entered July 20, 2020, the case was remanded to state court.	**xx** **@@** ****** **##** **&&**

304.	Notice of Removal, Markenson v. Macy's Retail Holdings, No. 2:20-cv-01029 (D.N.J. Jan. 30, 2020). Plaintiff, a citizen of New Jersey, sued defendants in the Superior Court of New Jersey, Essex County. Defendant Macy's received notice through Lexis Advance that a complaint had been filed against it. Macy's is a citizen of New York. Plaintiff asserted employment discrimination claims based upon New Jersey statutory law. Defendant Macy's removed based on diversity even though Defendant Jennifer Harder is a New Jersey citizen, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and arguing that Harder had not been served. By consent order entered February 7, 2020, the case was remanded to state court.	**!!** **hh** **##** **^^**
305.	Defendant's Notice of Removal Pursuant to 28 U.S.C. Section 1446(a), McNeill v. Dana Transp., Inc., No. 1:20-cv-01124 (D.N.J. Jan. 31, 2020). Plaintiff, a citizen of Pennsylvania, sued defendant, a New Jersey corporation with its principal place of business in New Jersey, in the Superior Court of New Jersey, Gloucester County, alleging employment discrimination claims based upon New Jersey statutory law. Prior to being served, Defendant removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Plaintiff did not move to remand.	**!!** **RR** ****** **##** **^^**
February 2020		
306.	Notice of Snap Removal, G.G. v. Allergan, Inc., No. 2:20-cv-01321-BRM-JAD (D.N.J. Feb. 7, 2020). Plaintiff, a New York citizen, sued defendants in the Superior Court of New Jersey, Morris County. Plaintiff alleged that defendants manufactured and distributed defective BIOCELL breast implants which plaintiff had surgically removed after learning that the implants increased the risk of breast cancer. Plaintiff asserted various products liability claims and asserted that New Jersey law controlled at least some of the claims (failure to warn). Allergan, Inc. is a Delaware corporation with its principal place of business in California. Allergan USA, Inc. is a Delaware corporation with its principal place of business in New Jersey. Allergan PLC is a foreign corporation incorporated in Ireland. Defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that no forum defendant had been served. By consent order entered February 25, 2020, the case was remanded to state court because the forum defendant had been served prior to removal.	**!!** **oo** **##**

307.	Notice of Snap Removal, J.P. v. Allergan, Inc., No. 2:20-cv-01323-BRM-JAD (D.N.J. Feb. 7, 2020). Plaintiffs, citizen of Washington, sued defendants in the Superior Court of New Jersey, Morris County. Plaintiff alleged that defendants manufactured and distributed defective BIOCELL breast implants which plaintiff had surgically removed after learning that the implants increased the risk of breast cancer. Plaintiff asserted various products liability claims and asserted that New Jersey law controlled at least some of the claims (failure to warn). Plaintiff's husband asserted a claim for loss of consortium. Allergan, Inc. is a Delaware corporation with its principal place of business in California. Allergan USA, Inc. is a Delaware corporation with its principal place of business in New Jersey. Allergan PLC is a foreign corporation incorporated in Ireland. Defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that no forum defendant had been served. By consent order entered February 25, 2020, the case was remanded to state court because the forum defendant had been served prior to removal.	**!!** **oo** **##**
308.	Notice of Snap Removal, K.K. v. Allergan, Inc., No. 2:20-cv-01325-BRM-JAD (D.N.J. Feb. 7, 2020). Plaintiffs, citizens of Michigan, sued defendants in the Superior Court of New Jersey, Morris County. Plaintiff alleged that defendants manufactured and distributed defective BIOCELL breast implants which plaintiff had surgically removed after learning that the implants increased the risk of breast cancer. Plaintiff asserted various products liability claims and asserted that New Jersey law controlled at least some of the claims (failure to warn). Plaintiff's husband asserted a claim for loss of consortium. Allergan, Inc. is a Delaware corporation with its principal place of business in California. Allergan USA, Inc. is a Delaware corporation with its principal place of business in New Jersey. Allergan PLC is a foreign corporation incorporated in Ireland. Defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that no forum defendant had been served. By consent order entered February 25, 2020, the case was remanded to state court because the forum defendant had been served prior to removal.	**!!** **oo** **##**

309.	Notice of Removal of Defendant Mary Kay, Inc., Carballo v. Johnson & Johnson, Inc., No. 3:20-cv-01630-AET-LHG (D.N.J. Feb. 14, 2020). Plaintiff sued Johnson & Johnson (a New Jersey corporation with its principal place of business in New Jersey), Johnson & Johnson Consumer, Inc. (a New Jersey corporation with its principal place of business in New Jersey) and other defendants in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged that she developed mesothelioma as the result of using Johnson & Johnson's and Mary Kay's talc powder. Mary Kay, Inc., a non-forum defendant removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that no defendants had been served. Plaintiff requested that the case be remanded and represented that the defendants did not object. By order entered March 16, 2020, the case was remanded to state court because the Johnson & Johnson defendants had been served prior to removal. [Note: Plaintiff previously filed and dismissed this case in January 2020. See Case No. 301.]	**xx** **MM**
March 2020		
310.	Defendant Novartis Pharmaceuticals Corp.'s Notice of Removal, Gustin v. Novartis Pharms. Corp., No. 2:20-cv-02753-JMV-MF (D.N.J. Mar. 12, 2020). Plaintiffs, citizens of Kentucky and Ohio, brought a wrongful death action against defendant, a Delaware corporation with its principal place of business in New Jersey, in the Superior Court of New Jersey, Morris County. Plaintiffs asserted various products liability claims, alleging that Tasigna, a cancer drug manufactured and sold by defendant, caused decedent, a citizen of Kentucky, to suffer from atherosclerotic-related conditions including coronary artery disease and gangrene. Plaintiff asserted various products liability claims pursuant to Kentucky law and New Jersey statutory law. Prior to service, Defendant removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). No motion to remand was filed.	**!!** **RR** ****** **##**
311.	Defendant Novartis Pharmaceuticals Corp.'s Notice of Removal, Dean v. Novartis Pharms. Corp., No. 2:20-cv-02755-JMV-MF (D.N.J. Mar. 13, 2020). Plaintiff, a citizen of Alabama, sued defendant, a Delaware corporation with its principal place of business in New Jersey, in the Superior Court of New Jersey, Morris County and asserted various products liability claims, alleging that Tasigna, a cancer drug manufactured and sold by defendant, caused him to suffer from atherosclerotic-related conditions including coronary artery disease that required angioplasty and stent replacement. Plaintiff asserted various products liability claims pursuant to Alabama law and New Jersey statutory law. Prior to service, Defendant removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). No motion to remand was filed.	**!!** **RR** ****** **##**

312.	Notice of Snap Removal, P.R. v. Allergan, Inc., No. 2:20-cv-02824-BRM-JAD (D.N.J. Mar. 14, 2020). Plaintiff, a citizen of Pennsylvania, sued defendants in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendants manufactured and distributed defective BIOCELL breast implants which plaintiff had surgically removed after learning that the implants increased the risk of breast cancer. Plaintiff asserted various products liability claims and asserted that New Jersey law controlled at least some of the claims (failure to warn). Plaintiff's husband asserted a claim for loss of consortium. Allergan, Inc. is a Delaware corporation with its principal place of business in California. Allergan USA, Inc. is a Delaware corporation with its principal place of business in New Jersey. Allergan PLC is a foreign corporation incorporated in Ireland. Prior to being served, defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). On March 16, 2020, plaintiff voluntarily dismissed without prejudice.	**!!** **RR** **%%** **##**
313.	Defendant Novartis Pharmaceuticals Corp.'s Notice of Removal, Dalton v. Novartis Pharms. Corp., No. 2:20-cv-02913-ES-CLW (D.N.J. Mar. 16, 2020). Plaintiff, a citizen of Kentucky, sued defendant, a Delaware corporation with its principal place of business in New Jersey, in the Superior Court of New Jersey, Morris County and asserted various products liability claims, alleging that Tasigna, a cancer drug manufactured and sold by defendant, caused him to suffer from atherosclerotic-related conditions including a heart attack. Plaintiff asserted various products liability claims pursuant to New Jersey law. Defendant removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. Plaintiff moved to remand, asserting that it had served defendant prior to removal. The case was remanded to state court after joint stipulation by the parties because the defendant had been served prior to removal.	**xx** **MM** ****** **##**
314.	Defendant Novartis Pharmaceuticals Corp.'s Notice of Removal, Lambert v. Novartis Pharms. Corp., No. 2:20-cv-02914-ES-CLW (D.N.J. Mar. 16, 2020). Plaintiff, a citizen of Virginia, sued defendant, a Delaware corporation with its principal place of business in New Jersey, in the Superior Court of New Jersey, Morris County and asserted various products liability claims, alleging that Tasigna, a cancer drug manufactured and sold by defendant, caused him to suffer from atherosclerotic-related conditions including a right brain stroke. Plaintiff asserted various products liability claims pursuant to Virginia law and New Jersey statutory law. Defendant removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. Plaintiff moved to remand, asserting that it had served defendant prior to removal. The case was remanded to state court after joint stipulation by the parties because the defendant had been served prior to removal.	**xx** **MM** ****** **##**

315.	Defendant Novartis Pharmaceuticals Corp.'s Notice of Removal, Glenn v. Novartis Pharms. Corp., No. 2:20-cv-02971-ES-CLW (D.N.J. Mar. 17, 2020). Plaintiff sued defendant, a Delaware corporation with its principal place of business in New Jersey, in the Superior Court of New Jersey, Morris County and asserted various products liability claims, alleging that Tasigna, a cancer drug manufactured and sold by defendant, caused plaintiff's decedent, a citizen of Utah, to suffer from atherosclerotic-related conditions including hardening of the arteries, a heart attack and later death. Plaintiff asserted various products liability claims pursuant to Utah law and New Jersey statutory law. Defendant removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. Plaintiff moved to remand, asserting that it had served defendant prior to removal. The case was remanded to state court after joint stipulation by the parties because the defendant had been served prior to removal.	**xx** **MM** ****** **##**
316.	Defendant Novartis Pharmaceuticals Corp.'s Notice of Removal, Neal v. Novartis Pharms. Corp., No. 2:20-cv-02972-ES-CLW (D.N.J. Mar. 17, 2020). Plaintiff, a citizen of Ohio, sued defendant, a Delaware corporation with its principal place of business in New Jersey, in the Superior Court of New Jersey, Morris County and asserted various products liability claims, alleging that Tasigna, a cancer drug manufactured and sold by defendant, caused her to suffer from atherosclerotic-related conditions that required a coronary artery stent. Plaintiff asserted various products liability claims pursuant to Ohio law and New Jersey statutory law. Defendant removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. Plaintiff moved to remand, asserting that it had served defendant prior to removal. The case was remanded to state court after joint stipulation by the parties because the defendant had been served prior to removal.	**xx** **MM** ****** **##**
317.	Defendant Novartis Pharmaceuticals Corp.'s Notice of Removal, Dattilo v. Novartis Pharms. Corp., No. 2:20-cv-03163-WJM-MF (D.N.J. Mar. 23, 2020). Plaintiff, a citizen of Illinois, sued defendant, a Delaware corporation with its principal place of business in New Jersey, in the Superior Court of New Jersey, Morris County and asserted various products liability claims, alleging that Tasigna, a cancer drug manufactured and sold by defendant, caused her to suffer from atherosclerotic-related conditions and strokes. Plaintiff asserted various products liability claims pursuant to Illinois law and New Jersey statutory law. Defendant removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. Plaintiff moved to remand, asserting that it had served defendant prior to removal. The case was remanded to state court after joint stipulation by the parties because the defendant had been served prior to removal.	**xx** **MM** ****** **##**

318.	Notice of Removal, Littlefield v. Sun Pharm. Indus., Inc., No. 3:20-cv-03170 (D.N.J. Mar. 23, 2020). Plaintiff, a North Carolina citizen, sued defendant, a Delaware corporation with its principal place of business in New Jersey, in the Superior Court of New Jersey, Middlesex County. Plaintiff alleged various claims arising from his employment by defendant, including a claim pursuant to the New Jersey Wage Theft Act. Prior to service, defendant removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and as asserting that it had not been served. No motion to remand was filed. By order dated November 16, 2020, the Court entered a stipulation of dismissal with prejudice after the parties reached a settlement agreement.	**!!** **RR** ****** **##** **^^**
319.	Notice of Removal, Northern Valley Commc'ns, L.L.C. v. AT&T Corp., No. 3:20-cv-03271 (D.N.J. Mar. 26, 2020). Plaintiff, an LLC and alleged citizen of South Dakota, filed in the Superior Court of New Jersey, Somerset County, against Defendant AT & T Corp., a New York corporation with its principal place of business in New Jersey. Plaintiff alleged conversion of is telecommunications facilities pursuant to South Dakota law. Prior to being served, AT&T removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and alleging that it had not been served. No motion to remand was filed. AT&T also alleged federal question jurisdiction, arguing that the plaintiff artfully pleaded a federal claim as state law claim.	**!!** **RR** **++** **^^**
320.	Defendant Novartis Pharmaceuticals Corp.'s Notice of Removal, Chase v. Novartis Pharms. Corp**.**, No. 2:20-cv-03295-MCA-LDW (D.N.J. Mar. 26, 2020). Plaintiff, a citizen of Utah, sued defendant, a Delaware corporation with its principal place of business in New Jersey, in the Superior Court of New Jersey, Morris County and asserted various products liability claims, alleging that Tasigna, a cancer drug manufactured and sold by defendant, caused plaintiff to suffer vascular disease and coronary artery disease. Plaintiff asserted various products liability claims pursuant to Utah law and New Jersey statutory law. Defendant removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. Plaintiff moved to remand, asserting that it had served defendant prior to removal. The case was remanded to state court after joint stipulation by the parties because the defendant had been served prior to removal.	**xx** **MM** **##** ******

321.	Defendant Novartis Pharmaceuticals Corp.'s Notice of Removal, Smith v. Novartis Pharms. Corp**.**, No. 2:20-cv-03300-KM-JBC (D.N.J. Mar. 26, 2020). Plaintiff, a citizen of Alabama, sued defendant, a Delaware corporation with its principal place of business in New Jersey, in the Superior Court of New Jersey, Morris County and asserted various products liability claims, alleging that Tasigna, a cancer drug manufactured and sold by defendant, caused plaintiff to suffer vascular disease resulting in painful and invasive procedures. Plaintiff asserted various products liability claims pursuant to Alabama law and New Jersey statutory law. Defendant removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. Plaintiff moved to remand, asserting that it had served defendant prior to removal. The case was remanded to state court after joint stipulation by the parties because the defendant had been served prior to removal.	**xx** **MM** **##** ******
322.	Defendant Novartis Pharmaceuticals Corp.'s Notice of Removal, Cook v. Novartis Pharms. Corp**.**, No. 2:20-cv-03302-CCC-ESK (D.N.J. Mar. 26, 2020). Plaintiff, a citizen of Texas, sued defendant, a Delaware corporation with its principal place of business in New Jersey, in the Superior Court of New Jersey, Morris County and asserted various products liability claims, alleging that Tasigna, a cancer drug manufactured and sold by defendant, caused her to suffer from vascular disease resulting in above-the-knee amputation. Plaintiff asserted various products liability claims pursuant to Texas law and New Jersey statutory law. Defendant removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. Plaintiff moved to remand, asserting that it had served defendant prior to removal. The case was remanded to state court after joint stipulation by the parties because the defendant had been served prior to removal.	**xx** **MM** **##** ******
April 2020		

323.	Defendant Novartis Pharmaceuticals Corp.'s Notice of Removal, McGillis v. Novartis Pharms. Corp., No. 2:20-cv-03909-JMV-MF (D.N.J. Apr. 10, 2020). Plaintiff, a citizen of Michigan, sued defendant, a Delaware corporation with its principal place of business in New Jersey, in the Superior Court of New Jersey, Morris County and asserted various products liability claims, alleging that Tasigna, a cancer drug manufactured and sold by defendant, caused her atherosclerotic-related conditions and vascular disease resulting in above-the-knee amputations. Plaintiff asserted various products liability claims pursuant to Michigan law and New Jersey statutory law. Defendant removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. Plaintiff moved to remand, asserting that it had served defendant prior to removal. The case was remanded to state court after joint stipulation by the parties because the defendant had been served prior to removal.	**xx** **MM** **##** ******
324.	Notice of Removal, Bunker v. 3M Corp., No. 3:20-cv-05288-MAS-DEA (D.N.J. Apr. 29, 2020). Plaintiffs, New Jersey citizens, sued numerous defendants in the Superior Court of New Jersey, Middlesex County, alleging that plaintiff husband developed lung cancer as the result of his exposure to asbestos at various places of employment. Defendant AT & T, Inc. removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that no forum defendant had been served. AT&T, Inc. withdrew its notice of removal on April 30, 2020 and the case was remanded May 7, 2020.	**!!** **oo**
	May 2020	
325.	Notice of Removal & Copies of All Process & Pleadings, Babcock v. Howmedica Osteonics Corp**.**, No. 2:20-cv-05664-SDW-LDW (D.N.J. May 7, 2020). Plaintiff, a citizen of Illinois, sued Howmedica Osteonics Corp. and Jill and Jack Doe defendants in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendant manufactured a hip replacement prosthesis that was implanted in his hip and caused injury. Plaintiff asserted various negligence and products liability claims against Howmedica. Plaintiff asserted that Illinois law controlled some claims, that New Jersey law controlled other claims and was silent regarding the controlling law with respect to other claims. Defendant Howmedica, a New Jersey corporation with its principal place of business in New Jersey, removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. Plaintiff moved to remand, asserting that he served the defendant's registered agent for service of process prior to removal. By consent order entered June 30, 2020, the case was remanded to state court.	**xx** **MM** ****** **##**

326.	Notice of Removal & Copies of All Process & Pleadings, Deburr v. Howmedica Osteonics Corp., No. 2:20-cv-05666 (D.N.J. May 7, 2020). Plaintiff, a citizen of Texas, sued Howmedica Osteonics Corp. and Jill and Jack Doe defendants in the Superior Court of New Jersey, Bergen County. Plaintiff alleged that defendant manufactured a hip replacement prosthesis that was implanted in his hip and caused injury. Plaintiff asserted various negligence and products liability claims against Howmedica. Plaintiff asserted that Texas law controlled some claims, that New Jersey law controlled other claims and was silent regarding the controlling law with respect to other claims. Defendant Howmedica, a New Jersey corporation with its principal place of business in New Jersey, removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. By consent order entered May 28, 2020, the case was remanded to state court (presumably because the defendant was served prior to removal).	**xx** **MM** ****** **##**
327.	Notice of Removal, Nahama v. Altice Tech. Servs. USA, No. 2:20-cv-06103-JMV-JAD (D.N.J. May 19, 2020). Nahama, a New Jersey citizen, filed suit in the Superior Court of New Jersey, Bergen County, against Defendant Altice Technical Services USA (ATS), an operating division of CSC Holdings LLC and Elizabeth Brogan, a citizen of New Jersey. Plaintiff asserted employment discrimination claims pursuant to New Jersey law. Before any defendant was served, Defendant ATS removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). Defendant ATS removed even though Defendant Brogan is non-diverse and a forum defendant. This removal is clearly improper given the lack of diversity. As of August 1, 2020, no motion to remand had been filed.	**!!** **RR** ****** **##** **^^**

Improper Removal – Lack of Complete Diversity		
328.	Notice of Removal, Glover v. Sanofi S.A., No. 3:20-cv-06463-PGS-DEA (D.N.J. May 28, 2020). Glover, a Missouri citizen, sued Sanofi U.S. Services (citizen of Delaware and New Jersey); Sanofi-Aventis U.S. LLC (citizen of Delaware and New Jersey); Sandoz Inc. (citizen of Colorado and New Jersey); Accord Healthcare, Inc. (citizen of North Carolina); McKesson Corp.(citizen of Delaware and Texas); Hospira Worldwide, LLC (citizen of Delaware and Illinois); Hospira, Inc. (citizen of Delaware and Illinois); Pfizer, Inc. (citizen of Delaware and New York); Actavis LLC (citizen of Delaware and New Jersey); Actavis Pharma, Inc.(citizen of Delaware and New Jersey); and Sagent Pharmaceuticals, Inc. (citizen of Delaware and Illinois) in the Superior Court of New Jersey, Middlesex County. Glover alleged that Taxotere/docetaxel that was used to treat her breast cancer caused her injury. Glover asserted products liability claims based upon New Jersey state law. Pursuant to an order dated August 15, 2018, the Supreme Court of New Jersey designated all litigation involving allegations of injuries from use of the drug Taxotere (docetaxel) as multicounty litigation and assigned this MCL to Middlesex County for centralized case management by Superior Court Judge James F. Hyland (No. MID-L-003090-20). Before any defendant was served in the matter, Hospira, Inc. and Hospira Worldwide, LLC, removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that no forum defendants had been served. The removing defendants requested the case be transferred to Eastern District of Louisiana where the MDL litigation is pending. *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 is pending. On June 25, 2020, plaintiff moved to remand this case and sixteen others, acknowledging that the case was removed before service upon any forum defendants but arguing that the snap removals were improper because plaintiff was unable to serve defendants due to clerical issues resulting from New Jersey's Covid-19 Emergency Orders limiting staff in the clerk's office and prohibiting servers' swift access to the clerk's office. In early October 2020, the case was transferred to *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La.).	**xx** **bb**

329.	Notice of Removal, Cora v. Sanofi S.A., No. 3:20-cv-06474-PGS-DEA (D.N.J. May 28, 2020). Cora, a Pennsylvania citizen, sued Sanofi U.S. Services (citizen of Delaware and New Jersey); Sanofi-Aventis U.S. LLC (citizen of Delaware and New Jersey); Sandoz Inc. (citizen of Colorado and New Jersey); Accord Healthcare, Inc. (citizen of North Carolina); McKesson Corp.(citizen of Delaware and Texas); Hospira Worldwide, LLC (citizen of Delaware and Illinois); Hospira, Inc. (citizen of Delaware and Illinois); Pfizer, Inc. (citizen of Delaware and New York); Actavis LLC (citizen of Delaware and New Jersey); Actavis Pharma, Inc.(citizen of Delaware and New Jersey); and Sagent Pharmaceuticals, Inc. (citizen of Delaware and Illinois) in the Superior Court of New Jersey, Middlesex County. Cora alleged that Taxotere/docetaxel that was used to treat her breast cancer caused her injury. Cora asserted products liability claims based upon New Jersey state law. Pursuant to an order dated August 15, 2018, the Supreme Court of New Jersey designated all litigation involving allegations of injuries from use of the drug Taxotere (docetaxel) as multicounty litigation and assigned this MCL to Middlesex County for centralized case management by Superior Court Judge James F. Hyland (No. MID-L-003090-20). Before any defendant was served in the matter, Hospira, Inc. and Hospira Worldwide, LLC, removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The removing defendants requested the case be transferred to Eastern District of Louisiana where the MDL litigation is pending. *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 is pending. On June 25, 2020, plaintiff moved to remand this case and sixteen others, acknowledging that the case was removed before service upon any forum defendants but arguing that the snap removals were improper because plaintiff was unable to serve defendants due to clerical issues resulting from New Jersey's Covid-19 Emergency Orders limiting staff in the clerk's office and prohibiting servers' swift access to the clerk's office. In early October 2020, the case was transferred to *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La.).	**xx** **bb**

330.	Notice of Removal, Rooney v. Sanofi S.A., No. 3:20-cv-06478-PGS-DEA (D.N.J. May 28, 2020). Rooney, a Pennsylvania citizen, sued Sanofi U.S. Services (citizen of Delaware and New Jersey); Sanofi-Aventis U.S. LLC (citizen of Delaware and New Jersey); Sandoz Inc. (citizen of Colorado and New Jersey); Accord Healthcare, Inc. (citizen of North Carolina); McKesson Corp.(citizen of Delaware and Texas); Hospira Worldwide, LLC (citizen of Delaware and Illinois); Hospira, Inc. (citizen of Delaware and Illinois); Sun Pharmaceutical Industries, Inc. (a citizen of New Jersey) Actavis LLC (citizen of Delaware and New Jersey); Actavis Pharma, Inc.(citizen of Delaware and New Jersey); and Sagent Pharmaceuticals, Inc. (citizen of Delaware and Illinois) in the Superior Court of New Jersey, Middlesex County. Rooney alleged that Taxotere/docetaxel that was used to treat her breast cancer caused her injury. Rooney asserted products liability claims based upon New Jersey state law. Pursuant to an order dated August 15, 2018, the Supreme Court of New Jersey designated all litigation involving allegations of injuries from use of the drug Taxotere (docetaxel) as multicounty litigation and assigned this MCL to Middlesex County for centralized case management by Superior Court Judge James F. Hyland (No. MID-L-003090-20). Before any defendant was served in the matter, Hospira, Inc. and Hospira Worldwide, LLC, removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The removing defendants requested the case be transferred to Eastern District of Louisiana where the MDL litigation is pending. *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 is pending. On June 25, 2020, plaintiff moved to remand this case and sixteen others, acknowledging that the case was removed before service upon any forum defendants but arguing that the snap removals were improper because plaintiff was unable to serve defendants due to clerical issues resulting from New Jersey's Covid-19 Emergency Orders limiting staff in the clerk's office and prohibiting servers' swift access to the clerk's office. In early October 2020, the case was transferred to *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La.).	**xx** **bb**

331.	Notice of Removal, Gamboa v. Sanofi S.A., No. 3:20-cv-06481-PGS-DEA (D.N.J. May 28, 2020). Gamboa, a California citizen, sued Sanofi U.S. Services (citizen of Delaware and New Jersey); Sanofi-Aventis U.S. LLC (citizen of Delaware and New Jersey); Sandoz Inc. (citizen of Colorado and New Jersey); Accord Healthcare, Inc. (citizen of North Carolina); McKesson Corp.(citizen of Delaware and Texas); Hospira Worldwide, LLC (citizen of Delaware and Illinois); Hospira, Inc. (citizen of Delaware and Illinois); Pfizer, Inc. (citizen of Delaware and New York); Actavis LLC (citizen of Delaware and New Jersey); Actavis Pharma, Inc.(citizen of Delaware and New Jersey); and Sagent Pharmaceuticals, Inc. (citizen of Delaware and Illinois) in the Superior Court of New Jersey, Middlesex County. Gamboa alleged that Taxotere/docetaxel that was used to treat her breast cancer caused her injury. Gamboa asserted products liability claims based upon New Jersey state law. Pursuant to an order dated August 15, 2018, the Supreme Court of New Jersey designated all litigation involving allegations of injuries from use of the drug Taxotere (docetaxel) as multicounty litigation and assigned this MCL to Middlesex County for centralized case management by Superior Court Judge James F. Hyland (No. MID-L-003090-20). Before any defendant was served in the matter, Hospira, Inc. and Hospira Worldwide, LLC, removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The removing defendants requested the case be transferred to Eastern District of Louisiana where the MDL litigation is pending. *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 is pending. On June 25, 2020, plaintiff moved to remand this case and sixteen others, acknowledging that the case was removed before service upon any forum defendants but arguing that the snap removals were improper because plaintiff was unable to serve defendants due to clerical issues resulting from New Jersey's Covid-19 Emergency Orders limiting staff in the clerk's office and prohibiting servers' swift access to the clerk's office. In early October 2020, the case was transferred to *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La.). On February 9, 2021, the parties entered into a stipulation of dismissal with prejudice.	**xx** **RR**

332.	Notice of Removal, Vick v. Sanofi S.A., No. 3:20-cv-06487-PGS-DEA (D.N.J. May 28, 2020). Vick, a Michigan citizen, sued Sanofi U.S. Services (citizen of Delaware and New Jersey); Sanofi-Aventis U.S. LLC (citizen of Delaware and New Jersey); Sandoz Inc. (citizen of Colorado and New Jersey); Accord Healthcare, Inc. (citizen of North Carolina); McKesson Corp.(citizen of Delaware and Texas); Hospira Worldwide, LLC (citizen of Delaware and Illinois); Hospira, Inc. (citizen of Delaware and Illinois); Pfizer, Inc. (citizen of Delaware and New York); Actavis LLC (citizen of Delaware and New Jersey); Actavis Pharma, Inc.(citizen of Delaware and New Jersey); and Sagent Pharmaceuticals, Inc. (citizen of Delaware and Illinois) in the Superior Court of New Jersey, Middlesex County. Vick alleged that Taxotere/docetaxel that was used to treat her breast cancer caused her injury. Vick asserted products liability claims based upon New Jersey state law. Pursuant to an order dated August 15, 2018, the Supreme Court of New Jersey designated all litigation involving allegations of injuries from use of the drug Taxotere (docetaxel) as multicounty litigation and assigned this MCL to Middlesex County for centralized case management by Superior Court Judge James F. Hyland (No. MID-L-003090-20). Before any defendant was served in the matter, Hospira, Inc. and Hospira Worldwide, LLC, removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The removing defendants requested the case be transferred to Eastern District of Louisiana where the MDL litigation is pending. *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 is pending. On June 25, 2020, plaintiff moved to remand this case and sixteen others, acknowledging that the case was removed before service upon any forum defendants but arguing that the snap removals were improper because plaintiff was unable to serve defendants due to clerical issues resulting from New Jersey's Covid-19 Emergency Orders limiting staff in the clerk's office and prohibiting servers' swift access to the clerk's office. In early October 2020, the case was transferred to *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La.).	**xx** **bb**

333.	Notice of Removal, Gough v. Sanofi S.A., No. 3:20-cv-06492-PGS-DEA (D.N.J. May 28, 2020). Gough, a North Carolina citizen, sued Sanofi U.S. Services (citizen of Delaware and New Jersey); Sanofi-Aventis U.S. LLC (citizen of Delaware and New Jersey); Sandoz Inc. (citizen of Colorado and New Jersey); Accord Healthcare, Inc. (citizen of North Carolina); McKesson Corp.(citizen of Delaware and Texas); Hospira Worldwide, LLC (citizen of Delaware and Illinois); Hospira, Inc. (citizen of Delaware and Illinois); Sun Pharmaceutical Industries, Inc. (a citizen of New Jersey) Actavis LLC (citizen of Delaware and New Jersey); Actavis Pharma, Inc.(citizen of Delaware and New Jersey); and Sagent Pharmaceuticals, Inc. (citizen of Delaware and Illinois) in the Superior Court of New Jersey, Middlesex County. Gough asserted products liability claims based upon New Jersey state law. Pursuant to an order dated August 15, 2018, the Supreme Court of New Jersey designated all litigation involving allegations of injuries from use of the drug Taxotere (docetaxel) as multicounty litigation and assigned this MCL to Middlesex County for centralized case management by Superior Court Judge James F. Hyland (No. MID-L-003090-20). Before any defendant was served in the matter, Hospira, Inc. and Hospira Worldwide, LLC, removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The removing defendants requested the case be transferred to Eastern District of Louisiana where the MDL litigation is pending. *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 is pending. On June 25, 2020, plaintiff moved to remand this case and sixteen others, acknowledging that the case was removed before service upon any forum defendants but arguing that the snap removals were improper because plaintiff was unable to serve defendants due to clerical issues resulting from New Jersey's Covid-19 Emergency Orders limiting staff in the clerk's office and prohibiting servers' swift access to the clerk's office. In early October 2020, the case was transferred to *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La.).	**xx** **RR**

334.	Notice of Removal, Jordan v. Sanofi S.A., No. 3:20-cv-06503 (D.N.J. May 28, 2020). Jordan, a California citizen, sued Sanofi U.S. Services (citizen of Delaware and New Jersey); Sanofi-Aventis U.S. LLC (citizen of Delaware and New Jersey); Sandoz Inc. (citizen of Colorado and New Jersey); Accord Healthcare, Inc. (citizen of North Carolina); McKesson Corp.(citizen of Delaware and Texas); Hospira Worldwide, LLC (citizen of Delaware and Illinois); Hospira, Inc. (citizen of Delaware and Illinois); Sun Pharmaceutical Industries, Inc. (a citizen of New Jersey) Actavis LLC (citizen of Delaware and New Jersey); Actavis Pharma, Inc.(citizen of Delaware and New Jersey); and Sagent Pharmaceuticals, Inc. (citizen of Delaware and Illinois) in the Superior Court of New Jersey, Middlesex County. Jordan alleged that Taxotere/docetaxel that was used to treat her breast cancer caused her injury. Jordan asserted products liability claims based upon New Jersey state law. Pursuant to an order dated August 15, 2018, the Supreme Court of New Jersey designated all litigation involving allegations of injuries from use of the drug Taxotere (docetaxel) as multicounty litigation and assigned this MCL to Middlesex County for centralized case management by Superior Court Judge James F. Hyland (No. MID-L-003090-20). Before any defendant was served in the matter, Hospira, Inc. and Hospira Worldwide, LLC, removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.,* 902 F.3d 147 (3d Cir. 2018). The removing defendants requested the case be transferred to Eastern District of Louisiana where the MDL litigation is pending. *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 is pending. On June 25, 2020, plaintiff moved to remand this case and sixteen others, acknowledging that the case was removed before service upon any forum defendants but arguing that the snap removals were improper because plaintiff was unable to serve defendants due to clerical issues resulting from New Jersey's Covid-19 Emergency Orders limiting staff in the clerk's office and prohibiting servers' swift access to the clerk's office. In early October 2020, the case was transferred to *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La.).	**xx** **bb**

335.	Notice of Removal, Bryant v. Sanofi S.A., No. 3:20-cv-06506-PGS-DEA (D.N.J. May 28, 2020). Bryant, a Texas citizen, sued Sanofi U.S. Services (citizen of Delaware and New Jersey); Sanofi-Aventis U.S. LLC (citizen of Delaware and New Jersey); Sandoz Inc. (citizen of Colorado and New Jersey); Accord Healthcare, Inc. (citizen of North Carolina); McKesson Corp.(citizen of Delaware and Texas); Hospira Worldwide, LLC (citizen of Delaware and Illinois); Hospira, Inc. (citizen of Delaware and Illinois); Sun Pharmaceutical Industries, Inc. (a citizen of New Jersey); Actavis LLC (citizen of Delaware and New Jersey); Actavis Pharma, Inc.(citizen of Delaware and New Jersey); and Sagent Pharmaceuticals, Inc. (citizen of Delaware and Illinois) in the Superior Court of New Jersey, Middlesex County. Bryant alleged that Taxotere/docetaxel that was used to treat her breast cancer caused her injury. Brant asserted products liability claims based upon New Jersey state law. Pursuant to an order dated August 15, 2018, the Supreme Court of New Jersey designated all litigation involving allegations of injuries from use of the drug Taxotere (docetaxel) as multicounty litigation and assigned this MCL to Middlesex County for centralized case management by Superior Court Judge James F. Hyland (No. MID-L-003090-20). Before any defendant was served in the matter, Hospira, Inc. and Hospira Worldwide, LLC, removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The removing defendants requested the case be transferred to Eastern District of Louisiana where the MDL litigation is pending. *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 is pending. On June 25, 2020, plaintiff moved to remand this case and sixteen others, acknowledging that the case was removed before service upon any forum defendants but arguing that the snap removals were improper because plaintiff was unable to serve defendants due to clerical issues resulting from New Jersey's Covid-19 Emergency Orders limiting staff in the clerk's office and prohibiting servers' swift access to the clerk's office. In early October 2020, the case was transferred to *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La.).	**xx** **bb**

336.	Notice of Removal, Sullivan v. Sanofi S.A., No. 3:20-cv-06516-PGS-DEA (D.N.J. May 28, 2020). Sullivan, a Florida citizen, sued Sanofi U.S. Services (citizen of Delaware and New Jersey); Sanofi-Aventis U.S. LLC (citizen of Delaware and New Jersey); Sandoz Inc. (citizen of Colorado and New Jersey); Hospira Worldwide, LLC (citizen of Delaware and Illinois); and Hospira, Inc. (citizen of Delaware and Illinois) in the Superior Court of New Jersey, Middlesex County. Sullivan alleged that Taxotere/docetaxel that was used to treat her breast cancer caused her injury. Sullivan asserted products liability claims based upon New Jersey state law. Pursuant to an order dated August 15, 2018, the Supreme Court of New Jersey designated all litigation involving allegations of injuries from use of the drug Taxotere (docetaxel) as multicounty litigation and assigned this MCL to Middlesex County for centralized case management by Superior Court Judge James F. Hyland (No. MID-L-003090-20). Before any defendant was served in the matter, Hospira, Inc. and Hospira Worldwide, LLC , removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The removing defendants requested the case be transferred to Eastern District of Louisiana where the MDL litigation is pending. *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 is pending. On June 25, 2020, plaintiff moved to remand this case and sixteen others, acknowledging that the case was removed before service upon any forum defendants but arguing that the snap removals were improper because plaintiff was unable to serve defendants due to clerical issues resulting from New Jersey's Covid-19 Emergency Orders limiting staff in the clerk's office and prohibiting servers' swift access to the clerk's office. In early October 2020, the case was transferred to *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La.).	**xx** **bb**

337.	Notice of Removal, Bidwell v. Sanofi S.A., No. 3:20-cv-06519-PGS-DEA (D.N.J. May 28, 2020). Bidwell, a Georgia citizen, sued Sanofi U.S. Services (citizen of Delaware and New Jersey); Sanofi-Aventis U.S. LLC (citizen of Delaware and New Jersey); Sandoz Inc. (citizen of Colorado and New Jersey); Accord Healthcare, Inc. (citizen of North Carolina); McKesson Corp.(citizen of Delaware and Texas); Hospira Worldwide, LLC (citizen of Delaware and Illinois); Hospira, Inc. (citizen of Delaware and Illinois); Pfizer, Inc. (citizen of Delaware and New York); Actavis LLC (citizen of Delaware and New Jersey); Actavis Pharma, Inc.(citizen of Delaware and New Jersey); and Sagent Pharmaceuticals, Inc. (citizen of Delaware and Illinois) in the Superior Court of New Jersey, Middlesex County. Bidwell alleged that Taxotere/docetaxel that was used to treat her breast cancer caused her injury. Bidwell asserted products liability claims pursuant to New Jersey state law. Pursuant to an order dated August 15, 2018, the Supreme Court of New Jersey designated all litigation involving allegations of injuries from use of the drug Taxotere (docetaxel) as multicounty litigation and assigned this MCL to Middlesex County for centralized case management by Superior Court Judge James F. Hyland (No. MID-L-003090-20). Before any defendant was served in the matter, Hospira, Inc. and Hospira Worldwide, LLC, removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The removing defendants requested the case be transferred to Eastern District of Louisiana where the MDL litigation is pending. *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 is pending. On June 25, 2020, plaintiff moved to remand this case and sixteen others, acknowledging that the case was removed before service upon any forum defendants but arguing that the snap removals were improper because plaintiff was unable to serve defendants due to clerical issues resulting from New Jersey's Covid-19 Emergency Orders limiting staff in the clerk's office and prohibiting servers' swift access to the clerk's office. In early October 2020, the case was transferred to *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La.).	**xx** **bb**

338.	Notice of Removal, Cooper v. Sanofi S.A., No. 3:20-cv-06521-PGS-DEA (D.N.J. May 28, 2020). Cooper, a Mississippi citizen, sued Sanofi U.S. Services (citizen of Delaware and New Jersey); Sanofi-Aventis U.S. LLC (citizen of Delaware and New Jersey); Sandoz Inc. (citizen of Colorado and New Jersey); Accord Healthcare, Inc. (citizen of North Carolina); McKesson Corp.(citizen of Delaware and Texas); Hospira Worldwide, LLC (citizen of Delaware and Illinois); Hospira, Inc. (citizen of Delaware and Illinois); Sun Pharmaceutical Industries, Inc. (a citizen of New Jersey); Pfizer, Inc. (citizen of Delaware and New York); Actavis LLC (citizen of Delaware and New Jersey); Actavis Pharma, Inc.(citizen of Delaware and New Jersey); and Sagent Pharmaceuticals, Inc. (citizen of Delaware and Illinois) in the Superior Court of New Jersey, Middlesex County. Cooper alleged that Taxotere/docetaxel that was used to treat her breast cancer caused her injury. Cooper asserted products liability claims pursuant to New Jersey state law. Pursuant to an order dated August 15, 2018, the Supreme Court of New Jersey designated all litigation involving allegations of injuries from use of the drug Taxotere (docetaxel) as multicounty litigation and assigned this MCL to Middlesex County for centralized case management by Superior Court Judge James F. Hyland (No. MID-L-003090-20). Before any defendant was served in the matter, Hospira, Inc. and Hospira Worldwide, LLC, removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The removing defendants requested the case be transferred to Eastern District of Louisiana where the MDL litigation is pending. *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 is pending. On June 25, 2020, plaintiff moved to remand this case and sixteen others, acknowledging that the case was removed before service upon any forum defendants but arguing that the snap removals were improper because plaintiff was unable to serve defendants due to clerical issues resulting from New Jersey's Covid-19 Emergency Orders limiting staff in the clerk's office and prohibiting servers' swift access to the clerk's office. In early October 2020, the case was transferred to *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La.).	**xx** **bb**

339.	Notice of Removal, Payton v. Sanofi S.A., No. 3:20-cv-06523-PGS-DEA (D.N.J. May 28, 2020). Payton, a Maryland citizen, sued Sanofi U.S. Services (citizen of Delaware and New Jersey); Sanofi-Aventis U.S. LLC (citizen of Delaware and New Jersey); Sandoz Inc. (citizen of Colorado and New Jersey); Accord Healthcare, Inc. (citizen of North Carolina); McKesson Corp.(citizen of Delaware and Texas); Hospira Worldwide, LLC (citizen of Delaware and Illinois); Hospira, Inc. (citizen of Delaware and Illinois); Sun Pharmaceutical Industries, Inc. (a citizen of New Jersey);Pfizer, Inc. (citizen of Delaware and New York); Actavis LLC (citizen of Delaware and New Jersey); Actavis Pharma, Inc. (citizen of Delaware and New Jersey); and Sagent Pharmaceuticals, Inc. (citizen of Delaware and Illinois) in the Superior Court of New Jersey, Middlesex County. Payton alleged that Taxotere/docetaxel that was used to treat her breast cancer caused her injury. Payton asserted products liability claims pursuant to New Jersey state law. Pursuant to an order dated August 15, 2018, the Supreme Court of New Jersey designated all litigation involving allegations of injuries from use of the drug Taxotere (docetaxel) as multicounty litigation and assigned this MCL to Middlesex County for centralized case management by Superior Court Judge James F. Hyland (No. MID-L-003090-20). Before any defendant was served in the matter, Hospira, Inc. and Hospira Worldwide, LLC, removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The removing defendants requested the case be transferred to Eastern District of Louisiana where the MDL litigation is pending. *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 is pending. On June 25, 2020, plaintiff moved to remand this case and sixteen others, acknowledging that the case was removed before service upon any forum defendants but arguing that the snap removals were improper because plaintiff was unable to serve defendants due to clerical issues resulting from New Jersey's Covid-19 Emergency Orders limiting staff in the clerk's office and prohibiting servers' swift access to the clerk's office. In early October 2020, the case was transferred to *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La.).	**xx** **bb**

340.	Notice of Removal, Blades v. Sanofi S.A., No. 3:20-cv-06527-PGS-DEA (D.N.J. May 29, 2020). Blades, a Missouri citizen, sued Sanofi U.S. Services (citizen of Delaware and New Jersey); Sanofi-Aventis U.S. LLC (citizen of Delaware and New Jersey); Sandoz Inc. (citizen of Colorado and New Jersey); Accord Healthcare, Inc. (citizen of North Carolina); McKesson Corp.(citizen of Delaware and Texas); Hospira Worldwide, LLC (citizen of Delaware and Illinois); Hospira, Inc. (citizen of Delaware and Illinois); Pfizer, Inc. (citizen of Delaware and New York); Actavis LLC (citizen of Delaware and New Jersey); Actavis Pharma, Inc.(citizen of Delaware and New Jersey); and Sagent Pharmaceuticals, Inc. (citizen of Delaware and Illinois) in the Superior Court of New Jersey, Middlesex County. Blades asserted products liability claims based upon New Jersey state law. Pursuant to an order dated August 15, 2018, the Supreme Court of New Jersey designated all litigation involving allegations of injuries from use of the drug Taxotere (docetaxel) as multicounty litigation and assigned this MCL to Middlesex County for centralized case management by Superior Court Judge James F. Hyland (No. MID-L-003090-20). Before any defendant was served in the matter, Hospira, Inc. and Hospira Worldwide, LLC, removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The removing defendants requested the case be transferred to Eastern District of Louisiana where the MDL litigation is pending. *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 is pending. On June 25, 2020, plaintiff moved to remand this case and sixteen others, acknowledging that the case was removed before service upon any forum defendants but arguing that the snap removals were improper because plaintiff was unable to serve defendants due to clerical issues resulting from New Jersey's Covid-19 Emergency Orders limiting staff in the clerk's office and prohibiting servers' swift access to the clerk's office. In early October 2020, the case was transferred to *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La.).	**xx** **bb**

341.	Notice of Removal, Chaisson-Ricker v. Sanofi S.A., No. 3:20-cv-06530-PGS-DEA (D.N.J. May 29, 2020). Chaisson-Ricker, a Virginia citizen, sued Sanofi U.S. Services (citizen of Delaware and New Jersey); Sanofi-Aventis U.S. LLC (citizen of Delaware and New Jersey); Sandoz Inc. (citizen of Colorado and New Jersey); Accord Healthcare, Inc. (citizen of North Carolina); McKesson Corp.(citizen of Delaware and Texas); Hospira Worldwide, LLC (citizen of Delaware and Illinois); Hospira, Inc. (citizen of Delaware and Illinois); and Sun Pharmaceutical Industries, Inc. (a citizen of New Jersey) in the Superior Court of New Jersey, Middlesex County. Chaisson-Ricker alleged that Taxotere/docetaxel that was used to treat her breast cancer caused her injury. Chaisson-Ricker asserted products liability claims based upon New Jersey state law. Pursuant to an order dated August 15, 2018, the Supreme Court of New Jersey designated all litigation involving allegations of injuries from use of the drug Taxotere (docetaxel) as multicounty litigation and assigned this MCL to Middlesex County for centralized case management by Superior Court Judge James F. Hyland (No. MID-L-003090-20). Before any defendant was served in the matter, Hospira, Inc. and Hospira Worldwide, LLC, removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The removing defendants requested the case be transferred to Eastern District of Louisiana where the MDL litigation is pending. *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La. filed Oct. 4, 2016). . On June 25, 2020, plaintiff moved to remand this case and sixteen others, acknowledging that the case was removed before service upon any forum defendants but arguing that the snap removals were improper because plaintiff was unable to serve defendants due to clerical issues resulting from New Jersey's Covid-19 Emergency Orders limiting staff in the clerk's office and prohibiting servers' swift access to the clerk's office. In early October 2020, the case was transferred to *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La.).	**xx** **bb**

342.	Notice of Removal, Cabrera v. Sanofi S.A., No. 3:20-cv-06538-PGS-DEA (D.N.J. May 29, 2020). Cabrera, a Florida citizen, sued Sanofi U.S. Services (citizen of Delaware and New Jersey); Sanofi-Aventis U.S. LLC (citizen of Delaware and New Jersey); Sandoz Inc. (citizen of Colorado and New Jersey); Accord Healthcare, Inc. (citizen of North Carolina); McKesson Corp.(citizen of Delaware and Texas); Hospira Worldwide, LLC (citizen of Delaware and Illinois); Hospira, Inc. (citizen of Delaware and Illinois); and Sun Pharmaceutical Industries, Inc. (a citizen of New Jersey) in the Superior Court of New Jersey, Middlesex County. Cabrera alleged that Taxotere/docetaxel that was used to treat her breast cancer caused her injury. Cabrera asserted products liability claims based upon New Jersey state law. Pursuant to an order dated August 15, 2018, the Supreme Court of New Jersey designated all litigation involving allegations of injuries from use of the drug Taxotere (docetaxel) as multicounty litigation and assigned this MCL to Middlesex County for centralized case management by Superior Court Judge James F. Hyland (No. MID-L-003090-20). Before any defendant was served in the matter, Hospira, Inc. and Hospira Worldwide, LLC, removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The removing defendants requested the case be transferred to Eastern District of Louisiana where the MDL litigation is pending. *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La. filed Oct. 4, 2016). . On June 25, 2020, plaintiff moved to remand this case and sixteen others, acknowledging that the case was removed before service upon any forum defendants but arguing that the snap removals were improper because plaintiff was unable to serve defendants due to clerical issues resulting from New Jersey's Covid-19 Emergency Orders limiting staff in the clerk's office and prohibiting servers' swift access to the clerk's office. In early October 2020, the case was transferred to *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La.).	**xx** **bb**

343.	Notice of Removal, Bramblett v. Sanofi S.A., No. 3:20-cv-06550-PGS-DEA (D.N.J. May 29, 2020). Bramblett, an Alabama citizen, sued Sanofi U.S. Services (citizen of Delaware and New Jersey) and Sanofi-Aventis U.S. LLC (citizen of Delaware and New Jersey) in the Superior Court of New Jersey, Middlesex County. Bramblett alleged that Taxotere/docetaxel that was used to treat her breast cancer caused her injury. Bramblett asserted products liability claims based upon New Jersey state law. Pursuant to an order dated August 15, 2018, the Supreme Court of New Jersey designated all litigation involving allegations of injuries from use of the drug Taxotere (docetaxel) as multicounty litigation and assigned this MCL to Middlesex County for centralized case management by Superior Court Judge James F. Hyland (No. MID-L-003090-20). Before any defendant was served in the matter, Hospira, Inc. and Hospira Worldwide, LLC, removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The removing defendants requested the case be transferred to Eastern District of Louisiana where the MDL litigation is pending. *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La. filed Oct. 4, 2016). . On June 25, 2020, plaintiff moved to remand this case and sixteen others, acknowledging that the case was removed before service upon any forum defendants but arguing that the snap removals were improper because plaintiff was unable to serve defendants due to clerical issues resulting from New Jersey's Covid-19 Emergency Orders limiting staff in the clerk's office and prohibiting servers' swift access to the clerk's office. Plaintiff also argued this removal was improper because Bramblett did not even sue the parties who removed. In early October 2020, the case was transferred to *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La.).	**xx** ****** **bb**
344.	Notice of Removal, Columbus Life Ins. Co. v. Wilmington Tr., N.A., No. 1:20-cv-00735-UNA (D. Del. May 30, 2020). Plaintiff, a citizen of Ohio, sued Defendant, a citizen of Delaware, in the Delaware Superior Court disputing the validity of a life insurance policy it had issued insuring the life of Mr. Romano. Defendant removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. No motion to remand was filed.	**!!** **RR** ****** **^^**
345.	Notice of Removal, Columbus Life Ins. Co. v. Wilmington Tr., N.A., No. 1:20-cv-00736-MN (D. Del. May 30, 2020). Plaintiff, a citizen of Ohio, sued Defendant, a citizen of Delaware, in the Delaware Superior Court disputing the validity of a life insurance policy it had issued insuring the life of Ms. Cohen. Defendant removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion* Restaurant*, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. No motion to remand was filed.	**!!** **RR** ****** **^^**

346.	Notice of Removal, Columbus Life Ins. Co. v. Wilmington Tr., N.A., No. 1:20-cv-00737-UNA (D. Del. May 31, 2020). Plaintiff, a citizen of Ohio, sued Defendant, a citizen of Delaware, in the Delaware Superior Court disputing the validity of a life insurance policy it had issued insuring the life of Ms. Chopp. Defendant removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. No motion to remand was filed.	**!!** **RR** ****** **^^**
	June 2020	
347.	Notice of Removal, Columbus Life Ins. Co. v. Wilmington Tr., N.A., No. 1:20-cv-00744-MN (D. Del. June 3, 2020). Plaintiff, a citizen of Ohio, sued Defendant, a citizen of Delaware, in the Delaware Superior Court disputing the validity of a life insurance policy it had issued insuring the life of Ms. Chisholm. Wilmington Trust, N.A. removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. Plaintiff moved to remand arguing that Wilmington Trust, N.A. filed the notice of removal but is not a party. The named defendant, Wilmington Trust Company did not remove and has since been served. Plaintiff also asserted that in Delaware, the Prothonotary must issue a summons after a complaint has been filed in the Delaware Superior Court and must then send the summons to the sheriff for service on the defendant. Due to the Covid-19 pandemic, the Prothonotary was running at limited capacity, thereby delaying service of process. By order dated January 15, 2021, the Court remanded the case after finding that the forum defendant had been served prior to removal.	**xx** ****** **^^** **@@**

348.	Notice of Removal, Andrews v. Sanofi S.A., No. 3:20-cv-06834 (D.N.J. June 4, 2020). Andrews, a Georgia citizen, sued Sanofi U.S. Services (citizen of Delaware and New Jersey); Sanofi-Aventis U.S. LLC (citizen of Delaware and New Jersey); Sandoz Inc. (citizen of Colorado and New Jersey); Accord Healthcare, Inc. (citizen of North Carolina); McKesson Corp.(citizen of Delaware and Texas); Hospira Worldwide, LLC (citizen of Delaware and Illinois); Hospira, Inc. (citizen of Delaware and Illinois) and Sun Pharmaceutical Industries, Inc. (a citizen of New Jersey) in the Superior Court of New Jersey, Middlesex County. Andrews asserted products liability claims based upon New Jersey state law. Pursuant to an order dated August 15, 2018, the Supreme Court of New Jersey designated all litigation involving allegations of injuries from use of the drug Taxotere (docetaxel) as multicounty litigation and assigned this MCL to Middlesex County for centralized case management by Superior Court Judge James F. Hyland (No. MID-L-003090-20). Before any defendant was served in the matter, Hospira, Inc. and Hospira Worldwide, LLC, removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018). The removing defendants requested the case be transferred to Eastern District of Louisiana where the MDL litigation is pending. *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La. filed Oct. 4, 2016). . On June 25, 2020, plaintiff moved to remand this case and sixteen others, acknowledging that the case was removed before service upon any forum defendants but arguing that the snap removals were improper because plaintiff was unable to serve defendants due to clerical issues resulting from New Jersey's Covid-19 Emergency Orders limiting staff in the clerk's office and prohibiting servers' swift access to the clerk's office. In early October 2020, the case was transferred to *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La.).	**xx** **bb**
349.	Notice of Removal, Cocco v. Stratas Foods LLC, No. 2:20-cv-07068 (D.N.J. June 10, 2020). Plaintiff, a citizen of New York, sued Stratas Foods LLC (a citizen of Delaware and Illinois) and Richard Vargas (a citizen of New Jersey) in the Superior Court of New Jersey, Essex County, alleging various employment discrimination claims pursuant to New Jersey statutory law. Stratas removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that Vargas, the forum defendant, had not been served prior to removal. No motion to remand was filed.	**!!** **RR** **##** **^^**

350.	Notice of Removal, Hull v. Janssen Pharms., Inc., No. 2:20-cv-07079 (D.N.J. June 10, 2020). Plaintiffs, citizens of South Carolina, sued numerous defendants in the Superior Court of New Jersey, Middlesex County, alleging that the prescription drug Elmiron caused plaintiff wife vision-related injuries. Plaintiff husband sought damages for loss of consortium. Plaintiffs alleged various product liability, fraud and negligence claims. Defendants Janssen Pharmaceuticals, Inc, Ortho-McNeil Pharmaceuticals, Inc., Janssen Research & Development, LLC, Johnson & Johnson, Teva Pharmaceuticals, USA, Inc., are all citizens of New Jersey. Teva Pharmaceuticals USA, Inc. removed based upon diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and alleging that one forum defendant who had been served was fraudulently joined and that the other forum defendants had not been served. No motion to remand was filed.	**!!** **RR**
351.	Notice of Removal, Lauber v. We Rent Equip., LLC, No. 3:20-cv-07114 (D.N.J. June 11, 2020). Plaintiff, a citizen of Pennsylvania, sued We Rent Equipment, LLC (a citizen of New Jersey) and other defendants in the Superior Court of New Jersey, Hunterdon County, alleging personal injury caused by the use of a commercial post hole digger. Plaintiff asserted negligence and product liability claims. A non-forum defendant removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and alleging that the forum defendant had not been served. No motion to remand was filed.	**!!** **RR**
352.	Notice of Removal, Scotti v. Metro Com. Mgmt. Servs., Inc., No. 1:20-cv-07287 (D.N.J. June 15, 2020). Plaintiff, a citizen of Pennsylvania, sued defendant (a New Jersey corporation with its principal place of business in New Jersey), in the Superior Court of New Jersey, alleging sex discrimination claims pursuant to New Jersey Statutory law. Defendant removed, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and alleging that it had not been served. No motion to remand was filed. Defendant acknowledged in the notice that it used a digital docket-monitoring service.	**!!** **RR** ****** **##** **^^**
353.	Defendants Sanofi-Aventis U.S. LLC & Sanofi U.S. Services Inc.'s Notice of Removal, Karl v. Sanofi U.S. Servs. Inc., No. 2:20-cv-07485 (D.N.J. June 19, 2020). Plaintiff, a Texas citizen, sued Sanofi U.S. Services Inc. (a Delaware corporation with its principal place of business in New Jersey) and Sanofi-Aventis U.S. LLC (citizen of Delaware and New Jersey) in the Superior Court of New Jersey, Middlesex County. Plaintiff asserted products liability claims based upon New Jersey state law. Defendants removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that they had not been served. By order entered July 16, 2020, the case was transferred to *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL No. 2740 (E.D. La. filed Oct. 4, 2020). No motion to remand was filed.	**!!** **RR** ****** **##**

354.	Notice of Removal, Flynn v. Omega Flex, Inc., No. 2:20-cv-03082 (E.D. Pa. June 24, 2020). Plaintiffs, citizens of Maryland, sued defendant, a Pennsylvania corporation with its principal place of business in Pennsylvania, in state court in Pennsylvania for the wrongful death of a firefighter. Plaintiffs alleged that defendant manufactured tubing that was the cause of a fire in the home to which the firefighter responded. Plaintiffs asserted negligence and product liability claims. Defendant removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that it had not been served. No motion to remand was filed.	**!!** **RR** ****
355.	Notice of Removal, Dillard v. T.D. Bank, N.A., No. 1:20-cv-07886 (D.N.J. June 29, 2020). Plaintiff, a citizen of New Jersey, sued T.D. Bank, N.A., a citizen of Delaware, and Katie Gordon, a citizen of New Jersey, in the Superior Court of New Jersey, Burlington County. Plaintiff asserted various employment discrimination claims pursuant to New Jersey statutory law. Defendant T.D. Bank, N.A. removed based on diversity, citing *Encompass Insurance Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147 (3d Cir. 2018), and asserting that Gordon had not been served. T.D. Bank inappropriately removed because the case lacks diversity jurisdiction. By order entered July 28, 2020, the district court denied the parties' joint consent motion to remand, finding that removal was proper despite the lack of complete diversity.	**xx** **$$** **RR** **** **##** **^^**