

Can a Lien Enforcement Action Be Properly Removed to Federal Court in Alabama?

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In Alabama, a lien claimant must file a lawsuit to enforce its mechanic's lien within six months of the maturation of the entire indebtedness in the Alabama state circuit court in the county where the subject property is located (Ala. Code §§ 35-11-220, -221, -222). But as an out-of-state owner or contractor, what if you prefer to litigate in federal court because you are concerned about "hometown" prejudice or bias in state court? Can you remove the claim to federal court? What if you are the lien claimant and another party decides to remove the action to federal court?

A federal court in Alabama concluded that it had jurisdiction over a lien enforcement action that had been removed from Alabama state court to federal court. In [Coffman Custom Homes, LLC v. Bernstein](#) (login required) (No. CV-14-J-200-NW, 2014 WL 12616662, at *1 (N.D. Ala. Mar. 4, 2014)), the defendants contracted with a homebuilder to construct a home in Lauderdale County, Alabama. A dispute arose between them, which resulted in the homebuilder recording a lien on the property. The homebuilder also filed a lawsuit in the Circuit Court of Lauderdale County, Alabama, to enforce the lien and made claims for breach of contract, account stated, and unjust enrichment. Defendants removed the action to the Northern District of Alabama based solely on diversity jurisdiction. For reference, diversity jurisdiction provides subject matter jurisdiction to a federal court when no plaintiff and defendant are domiciled in the same state and the dispute is more than \$75,000 (see [Exxon Mobil Corp. v. Allapattah Servs., Inc.](#), 545 U.S. 546, 552 (2005)). The homebuilder/lien claimant sought to remand the action back to state court, arguing that the Northern District of Alabama lacked jurisdiction over a state law mechanic's lien and that the only court able to hear the lien enforcement action was the Circuit Court of Lauderdale County, Alabama (*Coffman*, 2014 WL 1261662, at *1).

The homebuilder based its argument on Ala. Code § 35-11-220, which provides:

When the amount involved exceeds \$50.00, actions for the enforcement of liens under this division may be brought in the circuit court having jurisdiction in the county in which the property is situated. In all other cases actions to enforce such liens shall be brought before the district court in the county in which the property is situated.

The Northern District of Alabama denied the homebuilder's motion to remand the case back to state

court and found no support for the homebuilder's argument that the lien enforcement action could not be removed to federal court. In fact, the court found that other federal courts have addressed mechanic's liens, and none of them found that they did not have subject matter jurisdiction over a mechanic's lien claim.

In summary, a lien enforcement action by itself does not prevent a defendant from removing it from state court to federal court. Alabama, like most states, generally requires lien claimants to strictly comply with statutory law to avoid losing their lien rights.

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