

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI**

**SAMUEL K. LIPARI**  
(Statutory Trustee of Dissolved  
Medical Supply Chain, Inc.)

**Plaintiff,**

**V.**

**Case No. 06-0573-CV-W-FJG**

**GENERAL ELECTRIC COMPANY,  
GENERAL ELECTRIC CAPITAL BUSINESS  
ASSET FUNDING CORPORATION,  
GE TRANSPORTATION SYSTEMS GLOBAL  
SIGNALING, L.L.C.  
CARPET n, MORE, and  
STEWART FOSTER**

## Defendants.

**RESPONSE TO PLAINTIFF’S MOTION FOR EMERGENCY HEARING  
ON PLAINTIFF’S REMAND MOTION**

General Electric Company (“GE”), General Electric Capital Business Asset Funding Corporation (“GE Capital”), and GE Transportation Systems Global Signaling, LLC (“GE Transportation”) (collectively the “GE defendants”) respond to plaintiff’s Motion for Emergency Hearing on its Motion for Remand. Contemporaneously with this Response, the GE defendants have filed their Brief in Opposition to Plaintiff’s Motion for Remand.

This case began in Missouri state court on March 22, 2006. The named defendants were both local and non-local residents. Since the filing of the lawsuit, one of the local defendants, Heartland Financial, has been dismissed from this proceeding. Thereafter, the plaintiff has failed to serve the other local defendant and has since entered into a Case Management Order without the input from the local defendant.

The GE defendants contend that entering the Case Management Order constitutes an “other paper” as set forth in 28 U.S.C. § 1446(b). The GE defendants have moved for the removal within 30 days of the entering of the Case Management Order, thereby complying with § 1446.

Plaintiff contends that GE defendants did not submit the full docket sheet when it removed the case. However, the docket sheet presented by the GE defendants in their Motion to Remove includes the Case Management Order. It is the Case Management Order that provides the basis for GE defendants’ removal. Plaintiffs’ Motion for Remand is based on an inaccurate reading of Rule 54.21. Plaintiff has more than thirty days to serve a party and plaintiff’s failure to do so did not cause a dismissal of Carpets N’ More at that time. Accordingly, plaintiff’s Motion for Remand is not well taken and should be dismissed by this Court.

Paragraphs 8 through 13 are without any basis and, quite frankly, the GE defendants cannot even discern what it is that plaintiff is asserting in these paragraphs so as to formulate an appropriate response. The GE defendants do acknowledge, that Medical Supply Chain has sued the GE defendants in two separate federal court actions. Both actions have been dismissed. In one of those actions, the court has deemed that Medical Supply Chain’s conduct was sanctionable.

Notwithstanding the foregoing, the GE defendants are not opposed to having a hearing on plaintiff’s Motion for Remand on an expedited basis.

HUSCH & EPPENBERGER, LLC

By: /s/ John K. Power

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ATTORNEYS FOR GENERAL ELECTRIC  
COMPANY, GENERAL ELECTRIC CAPITAL  
BUSINESS ASSET FUNDING CORPORATION  
AND GE TRANSPORTATION SYSTEMS  
GLOBAL SIGNALING, LLC

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing instrument was forwarded this 3<sup>rd</sup> day of August, 2006, by first class mail, postage prepaid to:

Samuel K. Lipari  
297 NE Bayview  
Lee's Summit, MO 64064

/s/ John K. Power