

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

VELVET WEST AND GILBERT RIETH
VERSUS
ALLSTATE INSURANCE COMPANY, ET
AL.

CIVIL ACTION
NO: 06-6851
SECTION: "J" (2)

ORDER

Before the Court is plaintiffs' Motion to Remand (Doc. 9). The motion is opposed. For the following reasons, the motion should be DENIED.

Plaintiffs have failed to state a claim under Louisiana law against the agent that procured their homeowners' insurance policies. To state a cause of action for breach of an insurance agent's fiduciary duty, a plaintiff must show (1) an undertaking or agreement by the agent to procure insurance; (2) failure of the agent to use reasonable diligence in attempting to place the insurance and failure to notify the client promptly if he has failed to obtain the insurance; and (3) actions by the agent warranting the client's assumption that he is properly insured. *Offshore Prod. Contractors, v. Republic Underwriters Ins. Co.,*


910 F.2d 224, 229 (5th Cir. 1990) (citing *Karam v. St. Paul Fire & Marine Ins. Co.*, 281 So. 2d 728, 730-731 (La. 1973)).

Plaintiffs' allegations that their procuring insurance agent failed to "advise" them that Allstate would fail to pay their claim, that they "were not in good hands", or that they would have to sue Allstate to recover under their insurance are in fact allegations against Allstate for failing to fulfill its contractual or statutory duties as their insurer. Plaintiffs must proceed against Allstate in this Court to recover. Michael Carriere and Michael Carriere Insurance Agency, Inc. are improperly joined.

Accordingly,

IT IS ORDERED that plaintiff's Motion to Remand (Doc. 9) is **DENIED**.

New Orleans, Louisiana this the 9th day of January, 2007.


CARL J. BARBIER
UNITED STATES DISTRICT JUDGE