

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MICHELE TORNABENE, :
 :
 Plaintiff, :
 :
 v. : Civil Action No. 08-1379 (JR)
 :
 DISTRICT OF COLUMBIA, *et al.*, :
 :
 Defendants. :

MEMORANDUM

This employment discrimination action was removed from D.C. Superior Court on 8/7/08. The District of Columbia defendants moved on 8/14/08 to dismiss or for summary judgment. Today, 25 days later, plaintiff has yet to oppose that motion. Instead, on 8/26/08, plaintiff filed an "objection" to the notice of removal. One does not "object" to an improper removal; one moves for a remand. 28 U.S.C. § 1447(c). In any case, the procedural tangle in which this case is presented is of plaintiff's own making: she invoked Title VII of the Civil Rights Act of 1964 in her complaint, but now she takes the position that her Title VII claim is "premature" because she does not yet have a right-to-sue letter. A premature federal claim is in no danger of being time-barred, so no injustice is done by dismissing it. The District is correct, that neither Mayor Fenty nor the CFSA is a proper party defendant. What is left of this case belongs in Superior Court. The cleanest way to get it there is to treat the motion to dismiss as conceded, without prejudice, to dismiss the

case and to permit plaintiff to re-file -- against the proper defendant -- in this court if her federal claim has "matured" or in Superior Court if it has not. An appropriate order accompanies this memorandum.

JAMES ROBERTSON
United States District Judge