

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION at LEXINGTON

DONNA FRANKLIN,)	
)	
Plaintiff,)	Civil Action No. 5:11-cv-118-JMH
)	
v.)	
)	MEMORANDUM OPINION AND ORDER
MOTEL 6 OPERATING L.P., et al.,)	
)	
Defendants.)	

** ** ** ** **

On July 6, 2011, the Court issued a Memorandum Opinion and Order [Record No. 3] requiring Defendant show cause why this matter should not be remanded to the Fayette Circuit Court. Specifically the Court required Defendant to "offer competent proof of an amount in controversy which exceeds \$75,000" in order to establish this Court's jurisdiction over this matter. *Id.* at p. 3. Defendant has filed a Response to Show-Cause Order [Record No. 4] and this Court being sufficiently advised, the matter is now ripe for decision.

Defendant has the burden of proving complete diversity of citizenship and an amount in controversy in excess of \$75,000 when removing a case to federal court. *King v. Household Fin. Corp. II.*, 593 F. Supp. 2d 958, 959 (E.D. Ky. 2009). Therefore, Defendant "must show that it is more likely than not that the

plaintiff's claims exceed \$75,000." *Id.* Courts have recognized a stipulation by Plaintiff as well as jury verdicts in similar state court claims are sufficient to establish the amount in controversy. See *id.* at 961 ("If the only evidence offered to establish this valuation is a stipulation from the plaintiffs, then the Court would have to conclude that the amount in controversy at the time of removal was the amount provided in the Plaintiff's stipulation."); *Allstate Ins. Co. v. Blankenship*, No. 7:05-194-DCR, 2005 U.S. Dist. LEXIS 18636, at *18 (E.D. Ky. Aug. 30, 2005) (recognizing verdicts from similar cases as sufficient to prove the amount in controversy threshold has been met). Defendant has attached to its Response an excerpt of the Kentucky Trial Court Review reporting a \$651,415 verdict resulting from a sexual assault case involving a five-year-old girl [Record No. 4-2] and a stipulation from Plaintiff that she seeks more than \$75,000 in damages as proof that this case meets the amount in controversy requirement [Record No. 4-3]. While the Court questions the relevancy of the verdict reported in the sexual assault of a child to this case, the Court is satisfied that it has original jurisdiction over this matter under 28 U.S.C. § 1332 based on the stipulation of the Plaintiff that she is seeking more than \$75,000. Thus, the action was properly removed pursuant to 28 U.S.C. § 1441(a).

Accordingly, **IT IS ORDERED** that the Court's Order [Record No.

3] of July 19, 2011, is **DISCHARGED**.

This the 22nd day of July, 2011.



Signed By:

Joseph M. Hood *JMH*

Senior U.S. District Judge