

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
SOUTHERN DIVISION  
AT PIKEVILLE**

**ELIZABETH CORNETT,**  
**Plaintiff,**

**V.**

**McDONALD'S CORPORATION,**  
**Defendant.**

**CIVIL ACTION NO. 7:16-151-KKC**

**OPINION AND ORDER**

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This matter is before the Court on the motion to remand (DE 11) filed by the plaintiff. For the following reasons, the motion will be granted.

Plaintiff commenced this action in Letcher Circuit Court. She alleges that, as a result of the defendant McDonald's Corporation's negligence, she sustained permanent injuries to her head, neck, back, hand, and foot when visiting a McDonald's restaurant in Letcher County, Kentucky. She seeks compensatory damages including past, present, and future medical expenses and pain and suffering. McDonald's removed the matter asserting that this Court has jurisdiction under 28 U.S.C. § 1332(a). That statute provides that federal district courts have jurisdiction over all civil actions that are between citizens of different states where the matter in controversy exceeds \$75,000.

There is no dispute that the parties here are from different states. As to the amount in controversy, McDonald's asserts that, based upon its counsel's experience with the kinds of damages that plaintiff seeks, the amount in controversy exceeds \$75,000. With her motion to remand, plaintiff argues that this is not sufficient to

establish the amount in controversy for purposes of subject matter jurisdiction. She further states that she “is not asserting damages in this action that will exceed \$75,000.” (DE 11, Mot. at 2.)

In response, McDonald’s states that remand is proper. “A defendant wishing to remove a case bears the burden of satisfying the amount-in-controversy requirement.” *Everett v. Verizon Wireless, Inc.*, 460 F.3d 818, 822 (6th Cir.2006). Because McDonald’s does not contest plaintiff’s assertion that the amount in controversy requirement is not satisfied in this case, the Court hereby ORDERS as follows:

- 1) the motion to remand (DE 11) is GRANTED; and
- 2) this matter is REMANDED to Letcher Circuit Court.

Dated October 25, 2016.



*Karen K. Caldwell*  
KAREN K. CALDWELL, CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY