

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

ANGELA SEPTOR, et al.

CIVIL ACTION

VERSUS

NO: 10-1799

SANTOS VERELLE, et al.

SECTION "C"(4)

ORDER AND REASONS¹

This matter comes before the Court on the issue whether the minimum jurisdictional amount existed at the time of removal. (Rec. Doc. 22). Having reviewed the record, the memoranda of counsel and the applicable law, the Court has determined that the minimum amount in controversy has been satisfied.

With regard to the existence of the jurisdictional minimum, the parties may neither consent to nor waive federal subject matter jurisdiction. *Simon v. Wal-Mart Stores, Inc.*, 193 F.3d 848 (5th Cir. 1999) Bare assertions by the removing party are insufficient to invest a federal court with jurisdiction.

Louisiana law prohibits a plaintiff from pleading a specific amount of monetary damages. La. Code Civ. Proc. Art. 893. When a plaintiff has alleged an indeterminate amount of damages, the removing defendant must prove by a preponderance of the evidence that the amount in controversy exceeds \$75,000 in order to remove the case from state court to federal court. *De Aguilar v. Boeing Co.*, 11 F.3d 55. (5th Cir. 1993). The defendant can make a showing in either of two ways: (1) demonstrating that it is facially apparent that the claims are above 75,000, or

¹Helen Meaheer, a third year student at Tulane University Law School assisted in preparing this Order and Reasons.

(2) setting forth the facts that support a finding that the jurisdictional minimum has been satisfied.

The Plaintiff's petition concerns damages caused by an automobile collision on May 7, 2009. (Rec. Doc.22-1). While making a left turn, the Plaintiff was struck by an eighteen wheeler. As a result of the incident, she has suffered from cervical, neck and back pain, headaches, and pain in her right knee. (Rec. Doc. 22-1). As part of her care, she was prescribed medications for the pain, and x-rays as well as MRI scans were performed. (Rec. Doc.22). Her doctor believes that the Plaintiff suffers disc injuries as well as herniations in her neck and back discs which may require surgery. (Rec. Doc. 22). The MRI of her right knee revealed an oblique tear to the medical meniscus. (Rec. Doc. 22-4). The Plaintiff also continues to experience pain. (Rec. Doc.22).

Here, the defendants have provided documentation that support a finding that the jurisdictional amount of \$75,000 has been met. *See, e.g. Keller v. City of Plaquemine*, 700 So. 2d 1285 (La. App. 1 Cir. 1997); *Trahan v. Deville*, 933 So. 2d 187 (La. App 3 Cir. 2006); *Davis v. State through Charity-Delgado*, 694 So.2d 1227 (La. App 4 Cir 1996). As a result, this Court has subject matter jurisdiction over the present case.

New Orleans, Louisiana, this day 25th of October 2010.



HELEN G. BERRIGAN
UNITED STATES DISTRICT JUDGE