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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Cynthia M Ferrara,  
  
Plaintiff,  
  
v.  
  
21st Century North America Insurance  
Company, et al.,  
  
Defendants.

No. CV-13-01695-TUC-RCC

**ORDER ADOPTING MAGISTRATE  
JUDGE FERRARO’S REPORT AND  
RECOMMENDATION AND  
REMANDING CASE TO STATE  
COURT**

Pending before the Court is Ms. Ferrara’s Motion to Remand to State Court. (Doc. 15). Magistrate Judge Ferraro issued a Report and Recommendation on June 11, 2014 (Doc. 29, hereby incorporated by reference). 21<sup>st</sup> Century North American Insurance Company filed an Objection to Magistrate Judge Ferraro’s Report and Recommendation. (Doc. 30). Ms. Ferrara filed a Response to the Objection. (Doc. 31). The Court has reviewed all pertinent pleadings and is prepared to rule in favor of Ms. Ferrara.

Magistrate Judge Ferraro’s Report and Recommendation (“R&R”) recommends the case be remanded to state court for lack of federal jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332(d) (“CAFA”). Specifically, the R&R found that 21<sup>st</sup> Century showed an amount in controversy of \$4,976.87.50, some \$23,013 shy of the amount required for federal jurisdiction under CAFA.

21<sup>st</sup> Century argues that the Court should decline to adopt the R&R because the Magistrate’s calculation of the amount in controversy did not account for potential

1 punitive damages available to class members under Arizona law, but which Ms. Ferrara  
2 did not demand in her complaints. To further this argument, 21<sup>st</sup> Century cites *Rodriguez*  
3 *v. AT&T Mobility Servs. LLC*, 728 F.3d 975, 982(9<sup>th</sup> Cir. 2013) (“A lead plaintiff of a  
4 putative class cannot reduce the amount in controversy on behalf of absent class  
5 members...”); *See also Standard Fire Insurance Co. v. Knowles*, — U.S.—, 133 S.Ct.  
6 1345 (2013) (holding that a lead plaintiff to a putative class could not foreclose a  
7 defendant’s ability to establish the five million dollar amount in controversy by  
8 stipulating prior to class certification that the amount in controversy was less than five  
9 million dollars).

10 The Court finds 21<sup>st</sup> Century’s argument inapposite to the case at bar. In both  
11 *Rodriguez* and *Standard Fire* the plaintiffs took action, via stipulation or waivers made in  
12 pleadings, to show that the amount in controversy for the class was less than five million  
13 dollars. Here, Ms. Ferrara has never made such stipulations or waivers which would bind  
14 putative class members.

15 As such, the Court finds that 21<sup>st</sup> Century has not met its burden of showing  
16 jurisdiction under CAFA. Accordingly,

17 **IT IS HEREBY ORDERED** *granting* Plaintiff’s Motion (Doc. 15) and *adopting*  
18 the Magistrate Judge Ferraro’s Report and Recommendation (Doc. 29); the Clerk of the  
19 Court is directed to remand this case to Pima County Superior Court and close this file.

20 **IT IS FURTHER ORDERED** *denying* Defendant’s Motion to Dismiss (Doc. 16)  
21 as moot.

22 Dated this 6th day of August, 2014.

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Raner C. Collins  
Chief United States District Judge