

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

**MOORE'S JACKSONVILLE
FUNERAL HOME**

PLAINTIFF

v.

No. 4:13-cv-98-DPM

**CREMATORY MANUFACTURING &
SERVICE, INC.**

**DEFENDANT/
COUNTER CLAIMANT**

**AMERICAN FUNERAL SERVICE, INC.
d/b/a Moore's Jacksonville Funeral Home**

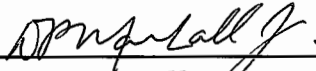
COUNTER DEFENDANT

ORDER

The Court appreciates the parties' supplemental briefs on jurisdiction. Moore's motion for remand, *No. 8*, is granted. The funeral home's complaint seeks damages for breach of contract (or restitution) of \$22,009.50, which is significantly less than the amount in controversy required for diversity jurisdiction. 28 U.S.C. § 1332(a). Crematory Manufacturing's counterclaim, which seeks to recover on the contract as a whole, is not properly considered in fixing the amount-in-controversy. *Usery v. Anadarko Petroleum Corp.*, 606 F.3d 1017 (8th Cir. 2010). Eighth Circuit law is clear: the amount in

controversy is “measured by the value to the plaintiff of the right sought to be enforced.” *Schubert v. Auto Owners Ins. Co.*, 649 F.3d 817, 821 (8th Cir. 2011) (quotation omitted). The value to Moore’s of its right in contract or restitution is about \$22,000. The case is therefore remanded to the Circuit Court of Pulaski County.

So Ordered.



D.P. Marshall Jr.
United States District Judge



18 April 2013