

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
PINE BLUFF DIVISION**

**MICHAEL CLARK, on  
behalf of himself and all  
others similarly situated**

**PLAINTIFF**

**v.**

**No. 5:11-cv-321-DPM**

**WELSPUN TUBULAR LLC**

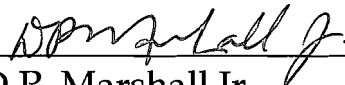
**DEFENDANT**

**ORDER**

The Court denies the motion to remand. The complaint does not include a comprehensive stipulation capping recovery in all forms. *Cf. Rolwing v. Nestle Holdings, Inc.*, No. 11-3445, 2012 WL 301030 (8th Cir. 2 February 2012); *Murphy v. Reebok Int'l, Ltd.*, No. 4:11-cv-214-DPM, 2011 WL 1559234 (E.D. Ark. 22 April 2011). Through the Withee affidavit and related math, Welspun has proved by a preponderance that the amount in controversy exceeds the jurisdictional minimum. *In re Minnesota Mut. Life Ins. Co. Sales Practices Litigation*, 346 F.3d 830, 834 (8th Cir. 2003); *Advance America Servicing of Arkansas, Inc. v. McGinnis*, 526 F.3d 1170, 1173 (8th Cir. 2008). Clark has not stipulated, for example, that he will accept no attorney's fee that would push his total recovery across the jurisdictional line. Welspun having carried its burden under the cases, Clark must show "to a legal certainty that

the claim is for less than the requisite amount.” *Bell v. Hershey Co.*, 557 F.3d 953, 956 (8th Cir. 2009). He has not done so. Motion to remand, *Document No.* 5, denied.

So Ordered.

  
\_\_\_\_\_  
D.P. Marshall Jr.  
United States District Judge

14 February 2012