

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV17-02536-RGK (JPRx) Date April 5, 2017

Title ***KIM BELL v. HOME DEPOT U.S.A., INC., et al***

Present: The Honorable R. GARY KLAUSNER, U.S. DISTRICT JUDGE

Sharon L. Williams

Not Reported

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (IN CHAMBERS) Order Remanding Action to State Court

On February 23, 2017, Kim Bell (“Plaintiff”) filed a complaint against Home Depot U.S.A., LLC (“Defendant”) alleging claims of discrimination, retaliation, wrongful termination, and other violations of state statutes.

On April 3, 2017, Defendants removed the action to this Court alleging jurisdiction on the grounds of diversity of citizenship. Upon review of Defendants’ Notice of Removal, the Court hereby remands the action for lack of subject matter jurisdiction.

Pursuant to 28 U.S.C. § 1332, district courts shall have original jurisdiction over any civil action in which the parties are citizens of different states and the action involves an amount in controversy that exceeds \$75,000. After a plaintiff files a case in state court, the defendant attempting to remove the case to federal court bears the burden of proving the amount in controversy requirement has been met. *Lowdermilk v. United States Bank Nat’l Ass’n*, 479 F.3d 994, 998 (9th Cir. 2007). If the complaint does not allege that the amount in controversy has been met, the removing defendant must supply this jurisdictional fact in the Notice of Removal by a preponderance of the evidence. *Gaus v. Miles, Inc.*, 980 F.2d 564, 566-567 (9th Cir. 1992).

In her complaint, Plaintiff seeks general and special damages, loss of earnings, punitive damages, attorney’s fees and costs, wages for missed meal and rest periods, and unpaid overtime. In support of its removal of the action, Defendant primarily relies on its argument that in many discrimination and wrongful termination cases, the awards far exceed the requisite \$75,000 jurisdictional amount, and that emotional distress damages, punitive damages, and attorney’s fees, by themselves, often exceed the jurisdictional threshold. Defendant also estimates Plaintiff’s economic damages using her hourly rate and an estimated 19 months of pre-trial litigation. However, these arguments and calculation merely rely on assumptions and speculation. Accordingly, the Court finds that Defendant have failed to satisfy its burden of showing by a preponderance of the evidence, that the amount in controversy meets the jurisdictional requirement.

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In light of the foregoing, the action is hereby **remanded** to state court for all further proceedings.

IT IS SO ORDERED.

Initials of Preparer _____ : _____
