

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. **ED CV 13-00846 JGB (SP)**

Date August 13, 2013

Title ***Camille Goldsmith v. Home Depot U.S.A., Inc., et al.***

Present: The Honorable **JESUS G. BERNAL, UNITED STATES DISTRICT JUDGE**

MAYNOR GALVEZ

Not Reported

Deputy Clerk

Court Reporter

Attorney(s) Present for Plaintiff(s):

Attorney(s) Present for Defendant(s):

None Present

None Present

Proceedings: ORDER To Show Cause re: Amount in Controversy (IN CHAMBERS)

Plaintiff Camille Goldsmith filed a Complaint (“Complaint”) in the Superior Court of California for the County of Riverside on March 21, 2013. (Notice of Removal, Doc. No. 1, Exh. A.) Defendant Home Depot U.S.A., Inc. filed a Notice of Removal on May 7, 2013. (Doc. No. 1.) Defendant alleges removal is proper on the basis of diversity under 28 U.S.C. § 1332.

The Complaint alleges that Plaintiff was distracted by unattended shopping carts in the parking lot of a Home Depot store in Rancho Mirage, CA and tripped over the metal and asphalt remnants of a removed shopping cart corral. (Not. of Removal, Exh. A at 2.) Plaintiff’s arm sustained a fracture. (*Id.*) Plaintiff alleges generally that she suffered “serious injuries and damages, including personal injuries, pain and suffering, medical expenses, lost income and lost earnings capacity.” (*Id.* at 3.) However, the sole injury alleged is a fractured arm.

While the parties satisfy the complete diversity of citizenship requirement of 28 U.S.C. § 1332, the Court finds that neither the complaint nor notice of removal establish that it is more likely than not that the amount in controversy will exceed \$75,000. See Sanchez v. Monumental Life Ins. Co., 102 F.3d 398, 404 (9th. Cir. 1996) (“[W]e hold that in cases where a plaintiff’s state court complaint does not specify a particular amount of damages, the removing defendant bears the burden of establishing, by a preponderance of the evidence, that the amount in controversy exceeds [the statutory minimum].”).

Defendant is ordered to show cause in writing no later than **August 21, 2013** why this action should not be dismissed for lack of subject matter jurisdiction.

IT IS SO ORDERED.