

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. ED CV17-00941-RGK (KKx) Date May 18, 2017

Title ***DJUAN MARTELL FITZGERALD v. FORD MOTOR COMPANY, INC.***

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 March 28, 2017, Djuan Martell Fitzgerald, et al (“Plaintiff”) filed a complaint against Ford Motor Company, Inc. (“Defendant”) alleging claims for 1) strict liability - design defect, 2) strict liability - failure to warn; (3) Breach of the Implied Warranty; (4) Negligence.

On May 15, 2017, Defendant removed the action to this Court alleging jurisdiction on the grounds of diversity of citizenship. Upon review of Defendant’s 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 his Complaint, Plaintiff does not expressly allege the amount in controversy or that the amount in controversy meets the jurisdictional requirement. In its Notice of Removal, Defendant states only that Plaintiff seeks damages for past and future general and special damages arising from injuries to Plaintiff’s head, neck, back, and chest, which cause him to become and remain comatose. Defendant further points to Plaintiff’s allegation that physicians have declared him “brain dead.” While the alleged injuries are indeed significant, Defendant fails to supply jurisdictional facts to meet its burden of showing that the jurisdictional requirement has been met by a preponderance of the evidence.

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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 _____ : _____
