

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior District Judge Richard P. Matsch

Civil Action No. 07-cv-01167-RPM

JASON ZELESKI,

Plaintiff,

v.

ALLSTATE INSURANCE COMPANY,

Defendant.

ORDER FOR REMAND

This civil action was removed from the District Court, City and County of Denver, Colorado, by Notice of Removal filed on June 4, 2007, based on diversity of citizenship jurisdiction under 28 U.S.C. § 1332. The Notice of Removal recites the amount of controversy as in excess of \$75,000 based on Paragraph 11 of the complaint alleging damages in excess of \$100,000. The complaint included a second claim for relief for the tort of bad faith insurance practice. The defendant filed its answer in this court on June 4, 2007. On June 14, 2007, the plaintiff submitted to this court a motion for leave to amend the complaint with a tendered amended complaint and also filed a pleading designated objection for removal and motion for remand in which the plaintiff alleges that he filed an amended complaint in the Denver District Court, removing the bad faith insurance practice claim. That is also the basis for the amended complaint tendered in this court. It is clear from the original complaint that the policy limits for the under insured motorist coverage are \$100,000 and the plaintiff has received \$25,000 from

insurance coverage from the driver's insurance company in this motor vehicle collision. Therefore \$75,000 is the maximum recovery, exclusive of interest and costs and the jurisdictional amount is not present in this dispute. While there was uncertainty with respect to the amount in dispute in the original complaint, the plaintiff has made clear that the jurisdictional amount is no longer present and it is therefore

ORDERED that this civil action is remanded to the District Court, City and County of Denver, Colorado.

DATED: June 18th, 2007

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior Judge