

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No.07-cv-01432-JLK-MJW

JEAN K. MUDD,

Plaintiff,

v.

C.B. FLEET HOLDING CO., INC., and  
C.B. FLEET CO., INC.

Defendants.

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ORDER

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KANE, J.

This matter is before me on the Fleet Defendants' Notice of Removal, in which the \$75,000 amount in controversy prerequisite for federal diversity removal jurisdiction is premised on "Plaintiff's stipulation made in the [state] civil case cover sheet filed in the district court that she is 'seeking a monetary judgment for more than \$100,000'" and a "fair reading" of the injuries and allegations set forth in her Complaint. As explained in *Harding v. Sentinel Ins. Co., Ltd.*, \_\_ F. Supp.2d \_\_, 2007 WL 1775678 (D. Colo. 2007)(Kane, J.), the act of opting out of Colorado's C.R.C.P. Rule 16.1 "Simplified Procedure" by checking the appropriate box on the Case Management Cover Sheet accompanying all state court complaints is an "inadequate basis" for establishing the necessary amount for diversity jurisdiction under 28 U.S.C. § 1332. *Id.* at \*1. As the

cover sheet is an inappropriate source for evidence or admissions tending to establish the fact of the amount in controversy in a given Complaint, I look to the Complaint itself and any relevant documents submitted with the Notice of Removal to assess whether an amount in excess of \$75,000, as is required for diversity jurisdiction under 28 U.S.C. § 1332, exists in this case.

Given the nature of Ms. Mudd's allegations of renal failure, stage IV kidney disease and anemia resulting from the ingestion of Defendants' product, a "fair reading" of Ms. Mudd's Complaint suggests there is more than \$75,000 at issue. However, the parties are admonished that I will remand the case to the state court for lack of subject matter jurisdiction should any facts develop that demonstrate otherwise.

Dated July 12, 2007.

**s/John L. Kane**  
SENIOR U.S. DISTRICT JUDGE