

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO
The Hon. Marcia S. Krieger

Case No. 09-cv-00022-MSK

ARKANSAS VALLEY DRILLING, INC.,

Plaintiff,

v.

CONTINENTAL WESTERN INSURANCE CO.,

Defendant

ORDER REMANDING CASE

THIS MATTER comes before the Court *sua sponte*.

The Plaintiff commenced this action in the Colorado District Court for Fremont County, alleging claims sounding in breach of contract, based on the Defendant's refusal to pay a claim on an insurance policy. In the Complaint filed in the state court, the Plaintiff did not specify the amount of monetary relief sought.

The Defendant has sought removal based upon diversity jurisdiction pursuant to 28 U.S.C. § 1332. The Defendant contends that the requisite amount in controversy can be inferred from both the Civil Cover Sheet and the factual allegations in the Complaint.

Consistent with the reasoning in *Baker v. Sears Holding Corp.*, 557 F. Supp. 2d 1208 (D. Colo. 2007) and *Klein v. State Farm Mut. Auto. Ins. Companies*, D. Colo. Case No. 08-cv-02257-MSK, 2008 WL 4948775 (Nov. 18, 2008), the Court finds that the Defendant has not shown specific facts, which if true, would demonstrate that the amount in controversy is at least \$75,000. The mere fact that the policy in question affords more than \$ 500,000 in coverage does

not necessarily establish the amount in controversy exceeds \$ 75,000, as there is no basis on this record to infer that the value of the damages claimed by the Plaintiff exceeds \$ 75,000, much less the full policy value.

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1447(c) this action is **REMANDED** to the Colorado District Court for Fremont County. The Clerk of the Court shall transmit the entire case file to the Clerk of the Colorado District Court for Fremont County, and shall close this case.

Dated this 7th day of January, 2009

BY THE COURT:

A handwritten signature in black ink, reading "Marcia S. Krieger", is written over a horizontal line.

Marcia S. Krieger
United States District Judge