

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Honorable Marcia S. Krieger

Civil Action No. 09-cv-02257-MSK-BNB

REBECCA L. MIKLOS,

Plaintiff,

v.

JOHN R. SMEDLY,

Defendant.

ORDER REMANDING CASE

THIS MATTER comes before the Court *sua sponte*, upon a Notice of Removal (#1) of a civil action from a Colorado District Court. This Court has reviewed the Notice of Removal and all documents referred to in it, including the State Court Complaint and Colorado Civil Cover Sheet.

In the Notice of Removal, the Defendant asserts that this Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332. The Defendant contends that the requisite amount in controversy can be inferred from the factual allegations in the State Court Complaint.

The Plaintiff commenced this action in the Archuleta County, Colorado District Court. The Plaintiff brings a single claim for negligence based on an automobile accident in which she suffered injuries. The State Court Complaint does not specify the amount of monetary relief sought, only that the Plaintiff “incurred significant medical bills, permanent injuries, economic damages and non-economic damages.” The Defendant further asserts that the Plaintiff has submitted limited medical bills, but does not specify the amount of the medical bills submitted.

The showing of the amount in controversy is conclusory, and therefore insufficient to demonstrate that the Plaintiff seeks recovery of at least \$75,000.

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. Accordingly, this Court lacks subject matter jurisdiction based upon 28 U.S.C. § 1332.

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1447(c) this action is **REMANDED** to the District Court from which it was removed.

Dated this 6th day of October, 2009

BY THE COURT:



Marcia S. Krieger
United States District Judge