

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

Civil Action No. 09-cv-02360-MSK

GERALD COLLETTI,

Plaintiff,

v.

RESTAURANT CONCEPTS II, LLC, d/b/a APPLGROVE RESTAURANTS,

Defendant.

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**ORDER REMANDING CASE**

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THIS MATTER comes before the Court *sua sponte*.

The Plaintiff commenced this action in the Pueblo County, Colorado District Court. In the state court Complaint, the Plaintiff brings one claim for juror retaliation under Colo. Rev. Stat. § 13-71-134 alleging that he was unlawfully terminated by the Defendant after he missed work due to his jury service. 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 the factual allegations in the Complaint. The Court has reviewed the Complaint, the Notice of Removal, and, if referred to, the Colorado Civil Cover Sheet.

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.

**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:**

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

Marcia S. Krieger  
United States District Judge