

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

Civil Action No. 10-cv-01322-MSK

DUSTIN J. PRIEBE,

Plaintiff,

v.

ALLSTATE INDEMNITY COMPANY, an Illinois company,

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 Denver District Court seeking to recover benefits under an insurance policy. The state court Complaint asserts claims against Defendant Allstate for: (1) breach of contract; (2) bad faith breach of insurance contract; (3) Violation of C.R.S. § 10-3-1116.

The Notice of Removal asserts that this case can be removed because this Court has jurisdiction pursuant to 28 U.S.C. § 1332. Such provision requires a showing of diversity between the parties and an amount in controversy exceeding \$75,000.00. Accordingly, the Court has reviewed the Notice of Removal and the state court Complaint.<sup>1</sup>

Neither the Notice of Removal nor the state court Complaint state sufficient facts to demonstrate that the amount in controversy exceeds \$75,000.00. The Plaintiff seeks damages for

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<sup>1</sup> If a state court Civil Cover Sheet has been referenced, the Court has considered it only in the context of the state court Complaint pursuant to the reasoning in *Baker v. Sears Holding Corp.*, 557 F. Supp. 2d 1208 (D. Colo. 2007),

injury caused by a failed sump pump. There are no alleged facts that quantify or estimate either the injury or loss suffered that would arguably be covered by the insurance policy.

Consistent with the reasoning in *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 exceeds \$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 16<sup>th</sup> day of June, 2010.

**BY THE COURT:**

A handwritten signature in black ink that reads "Marcia S. Krieger". The signature is written in a cursive style and is positioned above a horizontal line.

Marcia S. Krieger  
United States District Judge