

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

Civil Action No. 12-cv-01177-MSK

MARGARET SMITH ALBERT, as daughter and
lineal heir of JANET SMITH, deceased,

Plaintiff,

v.

SSC PUEBLO BELMONT OPERATING COMPANY, LLC
d/b/a BELMONT LODGE HEALTH CARE CENTER,
a Delaware limited liability company,

Defendant.

ORDER REMANDING CASE

THIS MATTER comes before the Court *sua sponte*.

The Plaintiff commenced this action in the District Court of Pueblo County, Colorado. The Plaintiff asserts a single claim for wrongful death, based on the Defendant's alleged negligent care of the decedent following a surgery. 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. To establish the amount in controversy, the Defendant relies primarily upon the Plaintiff's election in the mandatory Colorado Civil Cover Sheet stating: "This party is seeking a monetary judgment for more than \$100,000 against another party, including any attorney fees, penalties or punitive damages, but excluding interest and costs[.]"

Consistent with the reasoning in *Baker v. Sears Holding Corp.*, 557 F. Supp. 2d 1208 (D. Colo. 2007), 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 9th day of May, 2012

BY THE COURT:



A handwritten signature in black ink, reading "Marcia S. Krieger". The signature is written in a cursive style with a prominent dot over the 'i' in "Krieger".

Marcia S. Krieger
United States District Judge