

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Chief Judge Marcia S. Krieger**

Civil Action No. 15-cv-00768-MSK

STEPHEN FOSTER,

Plaintiff,

v.

**SHEILA GRIFFIN, and
C.R. ENGLAND, INC.,**

Defendants.

ORDER REMANDING CASE TO STATE COURT

THIS MATTER comes before the Court *sua sponte*. The Plaintiff, Stephen Foster, commenced this case in the Colorado District Court for Larimer County. The Complaint (#3) asserts claims for negligence. The Defendant, Sheila Griffin, removed the case to this Court. The Notice of Removal (#1) cites 28 U.S.C. § 1332 as the basis for this Court's subject matter jurisdiction.

A civil action is removable only if the plaintiff could have originally brought the action in federal court. 28 U.S.C. § 1441(a). In this case, removal is premised on diversity jurisdiction under 28 U.S.C. § 1332(a). Diversity jurisdiction exists when the case involves a dispute between citizens of different states, and the amount in controversy exceeds \$75,000. 28 U.S.C. §1332(a)(1). As the party invoking the federal court's jurisdiction, Ms. Griffin bears the burden of establishing that the requirements for the exercise of diversity jurisdiction are met. *See Huffman v. Saul Holdings Ltd. P'ship*, 194 F.3d 1072, 1079 (10th Cir. 1999). The Court is

required to remand “[i]f at any time before final judgment it appears that the district court lacks subject matter jurisdiction.” 28 U.S.C. § 1447(c).

In removed cases, the amount in controversy must be evidenced from the allegations contained in either the Complaint or the Notice of Removal. *See Laughlin v. Kmart Corp.*, 50 F.3d 871, 873 (10th Cir. 1995). Here, Ms. Griffin relies solely on Mr. Foster’s representation on his Civil Case Cover Sheet that he is seeking damages in excess of \$100,000 to evidence the amount in controversy. For the reasons stated in *Baker v. Sears Holdings Corp.*, 557 F.Supp.2d 1208 (D.Colo. 2007), the Court finds that the representations made on the Civil Case Cover Sheet alone are insufficient to establish the amount in controversy. As noted in *Baker*, the Civil Case Cover Sheet is not an exhibit to, or part of, the Complaint. It simply specifies a type of procedure to be used in the state case based upon an election as to whether the judgment sought is greater or less than \$100,000. Even if read with the Complaint, it contains no factual allegation of losses that would exceed \$75,000.

Accordingly, the Court finds that Ms. Griffin has failed to establish that the amount in controversy exceeds \$75,000. This Court therefore lacks subject matter jurisdiction over the claims asserted in this action. The Clerk is directed to **REMAND** the case to the Colorado District Court for Larimer County.

Dated this 15th day of April, 2015.

BY THE COURT:



Marcia S. Krieger
Chief United States District Judge