

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

DEREK FLYNN,

Plaintiff,

v.

Case No. 6:17-cv-27-Orl-37KRS

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY,

Defendant.

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**ORDER**

This cause is before the Court on Plaintiff's Motion for Remand (Doc. 14), filed January 18, 2017.

On November 29, 2016, Plaintiff filed this action for uninsured motorist benefits in state court. (Doc. 2.) Defendant later removed the action on the basis of diversity jurisdiction. (Doc. 1 ("**Notice of Removal**").) To establish the requisite amount in controversy, the Notice of Removal references: (1) Plaintiff's uninsured motorist policy limits of \$100,000 per person and \$300,000 per occurrence; (2) Plaintiff's demand letter for \$100,000; (3) Plaintiff's past medical bills, which are in excess of \$18,000; and (4) jury verdicts in the amount of \$116,085, \$141,321, and \$250,000 awarded to plaintiffs who sustained injuries similar to the shoulder injuries alleged by Plaintiff. (*Id.* ¶¶ 13, 14, 19–21.)

On January 18, 2017, Plaintiff moved for remand on the ground that Defendant's Notice of Removal failed to demonstrate the requisite amount in controversy by a preponderance of the evidence. (Doc. 14.) In support, Plaintiff argues that: (1) to date, his post-surgery medical bills only total \$18,560; (2) Defendant failed to cite any case law

holding that policy limits are relevant in determining the amount in controversy; and (3) the Court should give little weight to his pre-suit demand letter as Defendant has not shown that it is a reasonable assessment of his claim. (*Id.*)


Under Local Rule 3.01(b), a party opposing a motion must file a response within fourteen days after service of the motion. As Defendant has failed to respond within this timeframe, the Court construes Plaintiff's motion as unopposed and finds that it is due to be granted. Importantly, the Court concludes that Defendant has not met its burden of demonstrating by a preponderance of the evidence that the amount in controversy exceeds \$75,000. Hence the action is due to be remanded.

Accordingly, it is hereby **ORDERED AND ADJUDGED**:

1. Plaintiff's Motion for Remand (Doc. 14) is **GRANTED**.
2. This action is **REMANDED** to the Circuit Court of the Eighteenth Judicial Circuit in and for Seminole County, Florida.
3. The Clerk is **DIRECTED** to terminate all pending motions and close the case.

**DONE AND ORDERED** in Chambers in Orlando, Florida, on February 17, 2017.



  
ROY B. DALTON JR.  
United States District Judge

Copies:

Counsel of Record

The Circuit Court of the Eighteenth Judicial Circuit in and for Seminole County, Florida.