

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Case Number: 1:14-22344-CIV-MORENO

ALICE WILLIAMS,

Plaintiff,

vs.

DISCOUNT AUTO PARTS, LLC,

Defendant.

/

ORDER DENYING PLAINTIFF'S MOTION TO REMAND

THIS CAUSE came before the Court upon Plaintiff's Motion to Remand Matter Back to the State Court (**D.E. No. 7**), filed on July 23, 2014. Plaintiff claims that the Court does not have diversity jurisdiction to adjudicate this matter because Defendant has not established that the amount in controversy exceeds \$75,000. *See* 28 U.S.C. § 1332(a).

THE COURT has considered the motion and the pertinent portions of the record, and being otherwise fully advised in the premises, it is

ADJUDGED that the motion is **DENIED**.

Plaintiff's testimony controls the disposition of her Motion. When Plaintiff answered Defendant's First Request for Admission (RFA), she stated that her total damages are not less than or equal to \$75,000. (*See* D.E. 1-2, 1-3.) Plaintiff is in the best position to quantify the amount in controversy that she brings to the case and—for jurisdictional purposes—Defendant agrees with her assessment. Accepting Plaintiff's allegations as true,¹ the Court has no reason to doubt the accuracy of her answer.

¹ Plaintiff seeks recovery for “severe and grievous personal injuries[,] physical and mental pain and suffering, grief, humiliation, loss of wages, loss of capacity for the enjoyment of life, loss of

Despite her answer, Plaintiff believes her pre-removal settlement offer of less than \$75,000 is the best evidence of the amount in controversy. However, settlement offers are composed to reflect the risks and costs associated with contested litigation, rather than calculated based on the defendant's total exposure at trial. *See Vermande v. Hyundai Motor America, Inc.*, 352 F. Supp. 2d 195, 203 (D. Conn. 2004). Just as the Court would not limit Plaintiff's post-trial award based on her pre-trial settlement offer, the Court will not treat Plaintiff's offer as a ceiling for the real amount in controversy.

Plaintiff's Motion places Defendant in a difficult position. Plaintiff has not attached a dollar figure to her claim, and Plaintiff now wants to use the lack of a definitive amount in controversy to her advantage. Rather than prejudice Defendant for Plaintiff's contradictory pleadings, the Court will retain jurisdiction so long as Plaintiff does not stipulate to an amount in controversy below § 1332's monetary threshold.

DONE AND ORDERED in Chambers at Miami, Florida, this 15 day of October, 2014.


FEDERICO A. MORENO
UNITED STATES DISTRICT JUDGE

Copies provided to:

Counsel of Record

ability to earn money now and in the future, expense of medical care and treatment, and[] the aggravation of a previously existing condition." (D.E. 1-2 at 5-6.)