

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION at LEXINGTON

FRED KISSLING,)	
)	
Plaintiff,)	Civil Action No. 5:10-265-JMH
)	
v.)	
)	
)	
OHIO CASUALTY INSURANCE)	MEMORANDUM OPINION AND ORDER
COMPANY,)	
)	
Defendant.)	

** ** ** ** **

On August 4, 2010, this Court ordered [DE 5] Defendant to show cause why this matter should not be remanded to Fayette Circuit Court on the grounds that there is nothing from which to ascertain that it is more likely than not that the relief Plaintiff seeks is in excess of \$75,000. Plaintiff has filed a Motion to Remand [DE 7] which incorporates the argument contained in that Order by reference, and Defendant has responded in opposition to that Motion [DE 9].

In Defendant's Response to the Show Cause Order [DE 6] and Plaintiff's Motion to Remand [DE 9], Defendant offers nothing more than the fact that Plaintiff refuses to stipulate that he will seek no more than \$75,000, and the conclusory assertion that the attorneys fees alone for the three attorneys working Plaintiff's behalf "may well exceed the jurisdictional threshold," and that the amount in controversy must certainly climb even here when potential punitive damages are considered. This is not enough.

In the absence of some competent proof of an amount in controversy which exceeds \$75,000, the Court is of the opinion that it lacks original jurisdiction over this matter under 28 U.S.C. § 1332 and that this matter was improperly removed to this Court at this time under 28 U.S.C. § 1441. For this reason and as more fully explained in the Court's August 4, 2010, Order, the matter shall be remanded to Boyle Circuit Court for all further proceedings.

Accordingly, **IT IS ORDERED:**

(1) that Plaintiff's Motion to Remand [DE 7], which incorporates the argument articulated by this Court's Order to Show Cause by reference, is **GRANTED**;

(2) that, upon the Plaintiff's Motion to Remand [DE 7] and the Court's own Motion, this matter is **REMANDED** to the Fayette Circuit Court; and

(3) that the Clerk shall **STRIKE** this matter from the active docket.

This the 12th day of October, 2010.



Signed By:

Joseph M. Hood *JMH*

Senior U.S. District Judge