

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

CIVIL ACTION NO. 3:12-CV-457-H

DANA DIXON

PLAINTIFF

V.

J. ALEXANDERS INC.

DEFENDANT

MEMORANDUM OPINION AND ORDER

Plaintiff filed this employment discrimination lawsuit against Defendant in Jefferson Circuit Court. Asserting that the complaint alleged damages likely to be in excess of \$75,000, Defendant removed to this Court. Plaintiff has now moved to remand based on her stipulation that the amount in controversy “does not and will not exceed the amount of \$74,999, including attorney’s fees. She also asserted in the affidavit that she will not seek nor would she obtain or retain any damages in excess of that amount.

This Court has had a number of occasions to address this issue and has repeatedly stated that it will only remand based on a plaintiff’s subsequent affidavit where that affidavit is sufficiently unequivocal to limit the potential judgment to less than \$75,000. *See Egan v. Premier Scales & Sys.*, 237 F.Supp.2d 774, 778 (W.D. Ky. 2002); *Ralston v. Humana Insurance Co.*, 2012 U.S. Dist. LEXIS 95124, *2-4 (W.D. Ky. July 10, 2012). Here, after examining Plaintiff’s affidavit, the Court concludes that she has produced an unequivocal stipulation clarifying her original complaint. In the Court’s view, the stipulation does unequivocally assert that she will not seek nor accept an amount of damages in excess of \$75,000. On the basis of the affidavit, therefore, remand to Jefferson Circuit Court is appropriate.

Being otherwise sufficiently advised,

IT IS HEREBY ORDERED that Plaintiff's motion to remand is SUSTAINED and this case is REMANDED to Jefferson Circuit Court.

cc: Counsel of Record & Jefferson Circuit Court