

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

CIVIL ACTION NO. 3:12-CV-477-H

JULIA MILLER

PLAINTIFF

V.

TARGET CORPORATION

DEFENDANT

MEMORANDUM OPINION AND ORDER

Plaintiff originally filed this personal injury lawsuit in Jefferson Circuit Court. Subsequently, on August 8, 2012, Defendant timely removed the case to this Court based on diversity of citizenship and that the amount in controversy exceeded \$75,000. Plaintiff has now moved to remand based on the argument that the preponderance of evidence fails to show that the amount in controversy exceeds the jurisdictional limit.

Defendant has the burden of showing that the jurisdictional amount has been met in these circumstances. *Gafford v. General Electric Company*, 997 F.2d 150, 158 (6th Cir. 1993). However, in its response, Defendant has mentioned nothing about the nature of the accident or the potential injuries involved which would suggest damages of any amount or for that matter more than \$75,000. The only argument asserted is that Plaintiff has refused to stipulate that the amount in controversy exceeds \$75,000. However, the Court does not believe that Plaintiff's failure to stipulate is evidence that the amount actually does exceed \$75,000. A defendant must make some argument based on the facts of the case that the amount at issue exceeds the jurisdictional amount. Having failed to do so, Defendant has not met its burden to sustain federal jurisdiction.

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