

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

CIVIL ACTION NO. 3:14-CV-586-H

MARTHA T. DEGENER
LOUISVILLE, KENTUCKY

PLAINTIFF

V.

SEPHORA USA, INC.
AND
GENERAL GROWTH PROPERTIES INC. or REIT

DEFENDANTS

MEMORANDUM OPINION AND ORDER

This matter arises from an incident which allegedly took place on August 15, 2013, at the Oxmoor Center shopping mall, at which time Plaintiff alleges that Defendants negligently failed to maintain safe conditions at the entrance to the Sephora store and in the common areas surrounding it. Plaintiff now seeks remand to Jefferson Circuit Court.

Plaintiff filed her original action in Jefferson Circuit Court as required under Kentucky law. The complaint did not state a specific amount of damages. About two months prior to filing the complaint, Plaintiff had sent Defendants a pre-suit settlement demand asking for \$80,000 to settle the claim. On August 22, 2014, Defendants timely removed to federal court based on diversity of the parties and that the amount at issue exceeded \$75,000. Plaintiff has now moved to remand to Jefferson Circuit Court based

upon her stipulation that “her claim and the amount in controversy is and will be less than \$75,000.”

The Court has issued a number of opinions discussing the circumstances under which a defendant may show that the amount at issue exceeds the jurisdictional amount. As applied to Kentucky law, Plaintiff’s assertion by a letter prior to filing her complaint that the amount in controversy exceeded \$75,000 is consequential. It provided Defendants every reason to believe that the amount in controversy satisfied federal jurisdictional requirements. Therefore, removal was entirely appropriate under these circumstances. Moreover, for Plaintiff to attempt to stipulate a lesser amount came too late.

In addition, the Court notes that Plaintiff’s stipulation is not as thorough and comprehensive as the Court would normally require under these circumstances. For all these reasons, the Court concludes that this is a circumstance in which Defendants have very properly removed and remand is inappropriate.

Being otherwise sufficiently advised,

IT IS HEREBY ORDERED that Plaintiff’s motion to remand is DENIED.

cc: Counsel of Record