UNITED STATES DIS1TRICT COURT

MIDDLE DISTRICT OF LOUISIANA

MARK SCOTT CROFT, ET AL.

VERSUS

LIBERTY MUTUAL INSURANCE COMPANY, ET AL.

CIVIL ACTION

NO. 09-760-JJB

RULING

This matter is before the court for consideration of the Report and Recommendation of United States Magistrate Judge Docia Dalby, dated November 23, 2009 (doc. no. 7), relative to a motion to remand filed by plaintiffs (doc. 4). Defendants have filed an objection, to which plaintiffs have filed a response.

The magistrate judge recommends that this matter be remanded because defendants failed to establish jurisdictional amount. Defendants object to the magistrate judge's finding on two grounds. First, defendants contend that it is apparent from the face of the petition that the claims exceed $75,000. The court disagrees and adopts and approves the magistrate judge's reasoning on this point.

Secondly, defendants present the affidavit of a claims specialist relating her conversation with counsel for plaintiffs to show that the claimed damages exceed $75,000. Plaintiffs object to the affidavit on the following bases: (1) it is untimely; (2) it is based upon hearsay; (3) it improperly sets forth discussions made for purposes of settlement negotiations; and (4) it places plaintiff's counsel "in the very untenable position of being a witness." The court finds that plaintiffs' objections have merit.

Consequently, the court finds that defendants have failed to establish jurisdictional amount and that this matter must be remanded.

Accordingly, the motion to remand (doc. 4) is hereby GRANTED.

Baton Rouge, Louisiana, this 13th day of January 2010.

JAMES J. BRADY
UNITED STATES DISTRICT JUDGE