

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

CASSANDRA HUBERT

CIVIL ACTION

VERSUS

NO. 17-93-EWD

WAL-MART LOUISIANA, LLC
AND WAL-MART STORES, INC.**NOTICE AND ORDER**

This is a civil action involving claims for damages as a result of injuries sustained by Plaintiff, Cassandra Hubert (“Plaintiff”), on or about December 19, 2015. The matter was removed by Wal-Mart Stores, Inc. and Wal-Mart Louisiana, LLC (“Defendants”) on February 20, 2017 pursuant to 28 U.S.C. §1332.¹

The Notice of Removal alleges that the parties are completely diverse.² However, it is not apparent from the face of Plaintiff’s Petition for Damages that the claims are likely to exceed \$75,000.00. Plaintiff alleges that she was injured when Defendants’ employee “opened and/or unwrapped plastic wrap around a pallet, causing merchandise to fall onto [Plaintiff], thereby resulting in injuries...”³ including, inter alia, injuries to her neck, lower back, arms, hands, left shoulder, and left knee.⁴ Plaintiff asserts that as a result of the accident, she suffered damages including past, present, and future physical pain and suffering; past, present, and future mental pain, anguish, and distress; past, present and future medical expenses; past, present and future loss of enjoyment of life; and past, present, and future lost wages.⁵ There is no allegation in the Petition

¹ R. Doc. 1.

² R. Doc. 1, ¶¶ 10-12.

³ R. Doc. 1-1, ¶ 3.

⁴ R. Doc. 1-1, ¶ 12.

⁵ R. Doc. 1-1, ¶ 13.

regarding the amount of Plaintiff's medical expenses or lost wages, nor is there any additional information regarding the scope and type of Plaintiff's alleged injuries.

In the Notice of Removal, Defendants assert that “[o]n January 4, 2017, defendants propounded discovery to plaintiff to which plaintiff was asked to state whether she sustained damages in excess of \$75,000.00, exclusive of interest and costs. Plaintiff responded by providing in answer to interrogatory number 34 that at this time it appears that her damages will likely exceed \$75,000.00.”⁶ Despite this assertion, the record does not contain the actual discovery request and response relied upon by Defendants to establish the amount in controversy. Moreover, in the parties' Status Report, Plaintiff does not set forth the amount of lost wages claimed, and sets forth known medical expenses totaling \$12,083.01.⁷

Based on the allegations set forth in the Petition, as well as the information in the Notice of Removal and the parties' Status Report, the court sua sponte raises the issue of whether it may exercise diversity jurisdiction in this matter, specifically, whether the amount in controversy requirement has been met.

IT IS ORDERED that Wal-Mart Stores, Inc. and Wal-Mart Louisiana, LLC shall file a memorandum and supporting evidence concerning subject matter jurisdiction, specifically whether the amount in controversy requirement of 28 U.S.C. § 1332 is met, within ten (10) days of this Notice and Order.

IT IS FURTHER ORDERED that Plaintiff shall file either: (1) a memorandum and supporting evidence concerning the court's subject matter jurisdiction, specifically, whether the amount in controversy requirement of 28 U.S.C. § 1332 is met; or (2) a Motion to Remand, within

⁶ R. Doc. 1, ¶ 5.

⁷ R. Doc. 6.

ten (10) days after the filing of Defendants' memorandum. The case will be allowed to proceed if jurisdiction is adequately established.

IT IS FURTHER ORDERED that the scheduling conference set for April 20, 2017 is **RESET to Thursday, May 25, 2017 at 11:30 a.m.**

Signed in Baton Rouge, Louisiana, on April 17, 2017.



ERIN WILDER-DOOMES
UNITED STATES MAGISTRATE JUDGE