

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

PATSY TEDETON

* **CIVIL ACTION NO. 16-190**

VERSUS

* **JUDGE ROBERT G. JAMES**

**PROGRESSIVE PALOVERDE
COMPANY**

* **MAG. JUDGE KAREN L. HAYES**

RULING

On February 10, 2016, the above-captioned case was removed by Defendant Progressive Paloverde Company (“Progressive”) from the Fourth Judicial District Court for the Parish of Ouachita, State of Louisiana, to this Court on the basis of diversity jurisdiction. For the Court to exercise diversity jurisdiction, the adverse parties must be diverse in citizenship, and the amount in controversy must be greater than \$75,000.00. 28 U.S.C. § 1332(a).

On May 5, 2016, after a review of the record, Magistrate Judge Karen L. Hayes issued an order [Doc. No. 14] requiring Progressive to file “a memorandum, *together with supporting evidence*, sufficient to establish that the requisite amount was in controversy at the time of removal.”

Defendant did not do so.

On May 24, 2016, Magistrate Judge Hayes issued a Report and Recommendation [Doc. No. 15]. As there is a presumption against subject matter jurisdiction, and Defendant failed to submit the requisite memorandum and proof, she recommended that the Court find that Progressive failed to satisfy its burden and remand the case to state court.

The following day, May 25, 2016, Progressive filed objections [Doc. No. 16] to the Report and Recommendation. In the memorandum, Progressive’s counsel stated that Plaintiff Patsy Tedeton

("Tedeton") has serious injuries, has a current total medical bill of \$64,179.63, and continues to receive treatment. He further stated that Tedeton's counsel has consistently maintained that her injuries exceed the threshold amount.

Tedeton did not respond.

On June 23, 2016, the Court issued a Memorandum Order [Doc. No. 17], first noting that Progressive offered no explanation for its failure to comply with Magistrate Judge Hayes' order. The Court then found that Progressive had still failed to comply with the original order to file both a memorandum and supporting evidence. Therefore, the Court ordered Progressive to file admissible evidence to support its contentions that the jurisdictional amount is met no later than July 1, 2016, or the case would be remanded to the Fourth Judicial District Court.

On June 28, 2016, Progressive provided the supporting evidence in the form of affidavits from both its own counsel and counsel for Tedeton. Having reviewed the evidence which supports Progressive's statements in its objections, the Court finds that the amount in controversy exceeds \$75,000.00. Accordingly, the Court DECLINES TO ADOPT the Report and Recommendation of Magistrate Judge Hayes, finds that removal was proper, and the Court has subject matter jurisdiction over this case. The case remains pending in this Court, and a scheduling order will issue in due course.

MONROE, LOUISIANA, this 29th day of June, 2016.


ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE