

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION**

JOHN ORTEGO

CIVIL ACTION 10-510

VERSUS

JUDGE HAIK

MERIAL, LLC

MAGISTRATE JUDGE HANNA

JURISDICTIONAL AMOUNT REVIEW

Defendant removed this action from a Louisiana state court based on diversity jurisdiction under 28 U.S.C. §1332. In its Notice of Removal, defendant specifically itemized the likely damages due in this lawsuit for the death and illness of plaintiff's Doberman Pinscher breeding dogs allegedly due to defendant's heart worm preventative medication. Defendant states these figures are derived from counsel for plaintiff's representations and the petition for damages:

Value of dogs: 5 dogs at approximately \$ 5,000 each - \$ 25,000

Lost dog litters: at least \$3,500

Veterinary expenses: at least \$1,500

Attorney fees (provided by La. C.C. art. 2545): \$50,000 to \$75,000

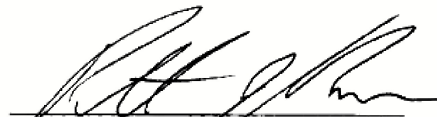
Exemplary or punitive damages: over \$75,000

Defendant explains that when attorney's fees are allowed by statute, they are considered in the amount in controversy, citing Manguno v. Prudential Prop. & Cas. Ins. Co., 276 F.3d 72, 723 (5th Cir. 2002). Likewise, defendant argues, exemplary or punitive damages should be included in consideration of the amount in controversy, whether they are likely to be recovered or not. Defendant also states plaintiff's failure to expressly

state the amount in controversy was below the jurisdictional minimum for federal court as required by La. C.C.P. art. 893 indicates the amount in controversy is above same.

The case was removed to federal court on March 26, 2010, and plaintiff has not filed a motion to remand. After review of defendant's well-detailed notice of removal, the undersigned finds it likely the amount in controversy exceeds the jurisdictional minimum, even not considering exemplary or punitive damages. Therefore, no further briefing is required.

Lafayette, Louisiana, this 6th day of May, 2010.



Patrick J. Hanna
United States Magistrate Judge
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