

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

FIA CARD SERVICES, N.A.,)
)
 Plaintiff,)
)
 v.) CV-10-154-B-W
)
JONH F. RILEY,)
)
 Defendant.)

**ORDER AFFIRMING RECOMMENDED DECISION AND REMANDING TO
STATE COURT**

By Complaint dated January 10, 2010, FIA Card Services, N.A. (FIA), a Delaware corporation, filed suit in state of Maine District Court in Ellsworth, Maine against John F. Riley, a resident of Blue Hill, Hancock County, state of Maine, under an account annexed, seeking judgment in the total amount of Twenty-Two Thousand Nine Hundred Seventy-Seven Dollars and Five Cents (\$22,977.05). *Compl.* Attach. 1 (Docket # 1). By Answer dated February 23, 2010, Mr. Riley answered the Complaint and denied its essential allegations. *Ans.* Attach. 4 (Docket # 1). On April 23, 2010, Mr. Riley filed a notice of removal in this Court purportedly under 28 U.S.C. § 1441. *Notice or Removal* (Docket # 1). On April 23, 2010, Mr. Riley also filed a counterclaim against FIA. *Amendment to Ans. and Countercls.* (Docket # 6). On June 23, 2010, this Court issued an Order to Show Cause questioning whether this Court has jurisdiction over the matter under 28 U.S.C. § 1332(a), since the amount in controversy in the Complaint did not exceed the \$75,000 jurisdictional amount for diversity jurisdiction. *Order to Show Cause*

(Docket # 26). Mr. Riley filed his response on July 13, 2010 and objected to a remand to state court. *Resp. to Order to Show Cause* (Docket # 27). FIA filed its response on July 15, 2010, agreeing that this Court is without jurisdiction. *FIA Card Servs. Resp. to Order to Show Cause* (Docket # 28). On July 16, 2010, the Magistrate Judge issued a Recommended Decision in which she recommended that the Court remand the case to state district court. *Recommended Decision* (Docket # 29). Mr. Riley objected on July 29, 2010. *Ob. to Remand to State Court* (Docket # 30).

This Court has reviewed and considered the Magistrate Judge's Recommended Decision, and the entire record, and has made a *de novo* determination of all matters adjudicated by the Magistrate Judge's Recommended Decision. For the reasons set forth in the Magistrate Judge's Recommended Decision, the Court affirms the Recommended Decision of the Magistrate Judge. This Court cannot assume diversity jurisdiction because the matter in controversy in the Complaint does not exceed \$75,000 as required by 28 U.S.C. § 1332(a) and the allegations in Mr. Riley's Counterclaim do not afford a proper basis for the assumption of federal jurisdiction. *Keybank Nat'l Ass'n v. Katahdin Commc'ns, Inc.*, No. CV-10-141-B-W, 2010 U.S. Dist. LEXIS 57445, at *4-8 (D. Me. Jun. 9, 2010).

This Court therefore ORDERS

(1) That the Magistrate Judge's Recommended Decision is hereby
AFFIRMED (Docket # 29); and,

(2) That this matter must be and hereby is REMANDED to the state of
Maine District Court, Ellsworth, Maine.

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
CHIEF UNITED STATES DISTRICT JUDGE

Dated this 7th day of September, 2010