

IN THE DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

FELICIA SHROPSHIRE

PLAINTIFF

VS.

CIVIL ACTION NO. 5:14-cv-59(DCB)(MTP)

THE KROGER CO.

DEFENDANT

ORDER

This cause is before the Court on the plaintiff Felicia Shropshire's Motion to Remand (**docket entry 3**). Having carefully considered the motion, and being fully advised in the premises, the Court finds as follows:

This case was removed from the County Court of Pike County, Mississippi, to this Court by the defendant, The Kroger Co., pursuant to 28 U.S.C. §§ 1332 (diversity of citizenship) and 1441 (removal), alleging that diversity exists between the parties, and that "it is clear that Plaintiff's claims are unlimited and the amount in controversy is in excess of \$75,000.00." Notice of Removal, ¶ 8.

In her Motion to Remand (docket entry 3), the plaintiff states that she seeks damages in a sum of less than \$75,000. She also submits a Stipulation of Damages (docket entry 3-1), stating that she is not seeking damages or a judgment in excess of \$75,000 exclusive of interest and costs. Stipulation of Damages, ¶ 3. In addition, the plaintiff has submitted a separate PLAINTIFF'S STIPULATION REGARDING AMOUNT IN CONTROVERSY which states:

Plaintiff, Felicia Shropshire, and her attorneys hereby stipulate that Plaintiff does not have currently, and will not at any time in the future in this matter, seek more than \$74,999.99, exclusive of interest and costs, in compensatory and/or punitive damages, from the Defendant in this civil action. It is further stipulated that should the fact finder award the Plaintiff more than a total of \$74,999.99, exclusive of interest and costs, Plaintiff will reject such award and request that the final judgment entered by the trial court not exceed \$74,999.99, exclusive of interest and costs.

Plaintiff's Stipulation Regarding Amount in Controversy (docket entry 6).

The Court is satisfied that this constitutes a "binding stipulation" not subject to change in the future. See De Aguilar v. Boeing Co., 47 F.3d 1404, 1410 (5th Cir. 1995). The Court interprets the plaintiff's affidavit to expressly disclaim any damages which the jury might award in excess of \$74,999.99. The plaintiff has therefore shown that she does not and will not seek to recover, and cannot recover, an amount in excess of \$74,999.99. Consequently, there is no possibility that the plaintiff may recover enough to satisfy the jurisdictional requirement. Remand is therefore required under 28 U.S.C. § 1447(c). See Hodge v. National Auction Group, Inc., 2006 WL 1579648, *2 (N.D. Miss. June 2, 2006). Accordingly,

IT IS HEREBY ORDERED that the plaintiff Felicia Shropshire's Motion to Remand (**docket entry 3**) is GRANTED.

FURTHER ORDERED that this action shall be REMANDED to the County Court of Pike County, Mississippi. A separate Order of

Remand shall follow.

SO ORDERED, this the 27th day of October, 2014.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE