

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

LUTHER WHITMORE, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 4:11CV1170 RWS
)	
AMERICAN DREAM LOGISTICS,)	
INC., et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before me on plaintiffs’ motion for remand. Plaintiffs initially sought remand on the ground that a newly-joined defendant, Penske Truck Leasing Co., L.P., would destroy diversity jurisdiction. After defendants demonstrated that this was not the case, I gave plaintiffs leave to file a reply brief explaining why remand remained appropriate. In reply, plaintiffs now argue that the amount in controversy does not exceed the jurisdictional minimum of \$75,000.00. However, plaintiffs made a settlement demand in this wrongful death case for the limits of the insurance policy, which defendants have demonstrated are \$1,000,000.00.¹ If plaintiffs’ counsel wishes to clarify that plaintiffs’ claims do not exceed the jurisdictional minimum, then I will allow him to file an appropriate stipulation signed by him and his clients stating that they will neither seek nor accept more than \$75,000.00 in this case. Otherwise, based on the information now before me, I believe defendants have met their burden to establish that the jurisdictional minimum is met in this case. Plaintiffs allege wrongful death arising out of a motor vehicle accident, and the decedent is survived by a minor child. Additionally, even though


¹This information was provided by defendants in support of its Notice of Removal.

plaintiffs only need to pray for damages in excess of \$25,000.00 in Missouri state court for jurisdictional purposes, the face of the state court petition and the amended complaint both clearly state that the amount claimed exceeds \$50,000.00. When this evidence is combined with the settlement demand for the limits of a \$1,000,000.00 insurance policy, absent an appropriate stipulation I believe defendants have met their burden of establishing that diversity jurisdiction exists in this case.

I will give plaintiffs until August 5, 2011 to file a stipulation in conformity with this Memorandum and Order. Otherwise, I will deny the motion for remand. **Finally, all filings in this case must comply with Local Rule 5-2.17(A)(2) as it is the parties' responsibility to redact the name of the minor plaintiff from their filings.**

Accordingly,

IT IS HEREBY ORDERED that plaintiffs may file a stipulation in conformity with this Memorandum and Order by **August 5, 2011**.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 29 day of July, 2011.