UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

EMILEE FREEMAN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:12CV2113 FRB
	)	
PROGRESSIVE INSURANCE COMPANY,	)	
	)	
Defendant.	)	

MEMORANDUM AND ORDER OF REMAND

This matter is before the Court on plaintiff Emilee Freeman's Motion To Remand To State Court. (Docket No. 9). All matters are pending before the undersigned United States Magistrate Judge, with consent of the parties, pursuant to 28 U.S.C. § 636(c).

Plaintiff commenced this action in the Circuit Court for the City of St. Louis on or about September 12, 2012. (Docket No. 1, Attachment 3). In her three-count Petition, plaintiff alleged that defendant failed to perform in accordance with the terms of an automobile insurance policy. On November 12, 2012, defendant removed the matter to this Court, alleging that this Court has diversity jurisdiction over this action. 28 U.S.C. §§ 1332. (Docket No. 1). In support, defendant averred that the parties are diverse, and that plaintiff's Petition "seeks recovery of an amount in excess of $75,000, and therefore there is a reasonable probability that the matter in controversy herein exceeds the sum of $75,000 exclusive of interest and costs." (Docket No. 1, page 1).

On November 29, 2012, plaintiff filed the instant Motion

To Remand. Therein, plaintiff argues that this Court does not have subject matter jurisdiction inasmuch as the maximum recovery for her claim falls below section 1332's jurisdictional threshold of $75,000.00. Plaintiff avers that she agrees to an "irrevocable cap" of $74,999.99, exclusive of interest and costs, upon the damages that she may seek or be awarded on her claims against defendant. (Docket No. 9 at page 1). In response to plaintiff's Motion To Remand, defendant filed a "Consent To Remand," in which defendant wrote that it "hereby consents to this case being remanded to state court pursuant to the stipulations entered into by Plaintiff in the Motion [To] Remand." (Docket No. 10).

Because there is no evidence before the Court that the amount in controversy exceeds $75,000.00, this Court lacks subject matter jurisdiction over this action, and must therefore remand it to the Circuit Court for the City of St. Louis. 28 U.S.C. § 1447(c) (In the event a federal court determines that it does not have subject matter jurisdiction over a removed action, it must remand the action to the state court where it originated).

Therefore,

IT IS HEREBY ORDERED that plaintiff Emilee Freeman's Motion To Remand To State Court (Docket No. 9) is granted.

IT IS FURTHER ORDERED that this matter is remanded to the Circuit Court for the City of St. Louis.

Frederick R. Buckles
UNITED STATES MAGISTRATE JUDGE

Dated this 13th day of December, 2012.