

FILED

FEB 12 2013

Clerk, U.S District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

MISSOULA DIVISION

RICHARD SHERMAN and)
DEBRA SHERMAN,)

Plaintiffs,)

vs.)

NATIONWIDE MUTUAL)
INSURANCE COMPANY,)
ALLIED PROPERTY AND)
CASUALTY INSURANCE)
COMPANY, and DOES I & II,)

Defendants.)

CV 12-152-M-DLC-JCL

ORDER

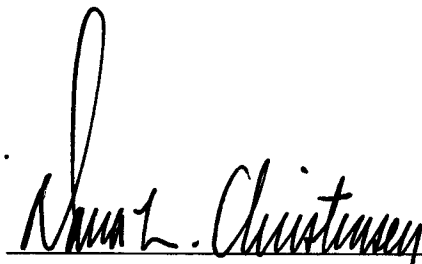
Plaintiffs Richard and Debra Sherman filed a motion to remand (doc. 8) which is pending in this matter. United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation on January 15, 2013, recommending granting the motion and remanding the case to State court. The parties did not timely object to the Findings and Recommendation, and so have

waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch required Plaintiffs to file an affidavit stating they will not claim more than \$75,000 in damages if this action is returned to the Eleventh Judicial District of Montana. (Doc. 28.) Based on this affidavit, Judge Lynch found the amount in controversy does not exceed the requisite amount of \$75,000 and recommended remand. There being no clear error in Judge Lynch’s Findings and Recommendation,

IT IS HEREBY ORDERED that Judge Lynch’s Findings and Recommendation (doc. 30) are adopted in full. Plaintiffs’ motion to remand (doc. 8) is GRANTED and this case shall be remanded to the Montana Eleventh Judicial District Court, Flathead County.

Dated this 12th day of February, 2013.



Dana L. Christensen, District Judge
United States District Court