

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

HARCHELROAD MOTORS, INC.,)
a Nebraska Corporation,)
)
Plaintiff,)
v.)
)
UNIVERSAL UNDERWRITERS)
INSURANCE COMPANY, ZURICH)
AMERICAN INSURANCE)
COMPANY, and CHARLES CHASE,)
)
Defendants.)

7:11CV5002

**MEMORANDUM
AND ORDER**

This matter is before the court on the findings and recommendation filed by Magistrate Judge Zwart on May 16, 2011 (filing [37](#)). Judge Zwart recommends that the plaintiff’s motion for remand (filing [20](#)) be granted because subject matter jurisdiction is lacking in this court.

No objections have been filed to the findings and recommendation within the time permitted by [28 U.S.C. § 636\(b\)\(1\)](#). In any event, I have conducted a de novo review and find that Judge Zwart has correctly found the facts and applied the law. Her findings and recommendation therefore will be adopted, and the case remanded to state court.

“An order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal.” [28 U.S.C. § 1447\(c\)](#). By joint stipulation (filing [39](#)), the parties have agreed that two of the defendants, Universal Underwriters Insurance Company and Zurich American Insurance Company, will pay to the plaintiff, Harchelroad Motors, Inc., a total of \$12,500 in complete satisfaction of the plaintiff’s claims for attorneys’ fees and costs

associated with the removal. I find that the stipulation should be approved, and judgment entered accordingly.

IT IS ORDERED:

1. The magistrate judge's findings and recommendation (filing [37](#)) are adopted.
2. The plaintiff's motion for remand (filing [20](#)) is granted, and this case is remanded to state court, pursuant to 28 U.S.C. § 1447(c), for lack of subject matter jurisdiction.
3. The clerk of the court shall mail a certified copy of this order to the District Court of Chase County, Nebraska, and may take any other action necessary to effectuate the remand.
4. The parties' joint stipulation (filing [39](#)) is approved, and the plaintiff is awarded attorneys' fees and costs in the total amount of \$12,500 against the defendants Universal Underwriters Insurance Company and Zurich American Insurance Company.
5. Final judgment will be entered by separate document.

June 15, 2011.

BY THE COURT:

Richard G. Kopf

United States District Judge