

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Francis Hebert, et al.

v.

Case No. 14-cv-541-PB
Opinion No. 2015 DNH 172

Bank of America, N.A.

O R D E R

Francis Hebert has filed a motion to remand, alleging that the court lacks diversity jurisdiction because the \$75,000 amount in controversy requirement cannot be satisfied. The defendant opposes the motion.

Hebert concedes that the amount in dispute in this case is approximately \$25,000. Defendant argues that this concession satisfies the amount in controversy requirement because the original complaint included a statutory claim for treble damages and attorneys' fees. I agree.

Although Hebert has filed an amended complaint that omits his treble damages claim, the amount in controversy requirement must be determined as of the date that the original complaint is filed. Subsequent events such as the filing of an amended complaint that reduce the amount in controversy will not deprive the court of jurisdiction. [Poore v. American-Amicable Life Ins. Co.](#), 218 F.3d 1287, 1289, 1291 (11th Cir. 2000); see also [Coventry Sewage Assocs. v. Dworkin Realty Co.](#), 71 F.3d 1, 7 (1st

[Cir. 1995](#)) (court not deprived of jurisdiction by change of events after complaint is filed). Nor does the availability of a defense to an asserted claim affect the amount in controversy determination. [Scherer v. Equitable Life Assurance Soc'y of the U.S., 347 F.3d 394, 397 \(2nd Cir. 2003\)](#).

The defendant has met its burden to show that the amount in controversy exceeds \$75,000. The motion to remand (doc. no. [11](#)) is denied.

SO ORDERED.

/s/Paul Barbadoro
Paul Barbadoro
United States District Judge

September 9, 2015

cc: John F. Skinner, III, Esq.
Keith A. Matthews, Esq.
Thomas J. Pappas, Esq.