

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Alvin Gamble,
Plaintiff,

vs.

Bank of America, N.A.,
Defendant.

C/A No. 3:14-cv-02767-JFA

ORDER

This matter is before the Court on Defendant's motion to amend its notice of removal and Defendant's separate motion for reconsideration. First, the Defendant has moved to amend its notice of removal so that it may include an email from Plaintiff to Defendant, where Plaintiff acknowledges that he seeks an amount in controversy that exceeds \$75,000. (ECF No. 13-8, p. 15). The Defendant also moved pursuant to Rule 59(e) of the Federal Rules of Civil Procedure for the Court to reconsider its Order of Remand issued July 15, 2014. (ECF No. 14). This Court remanded the action and held that a verbal settlement demand, made through a mediator, was not "an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable." (ECF No. 9) (citing 28 U.S.C. § 1446(b)(3)).

Rule 59(e) allows a party to file a motion to alter or amend a judgment within "28 days after the entry of the judgment." Fed. R. Civ. P. 59(e). A motion to alter or amend a judgment is "an extraordinary remedy which should be used sparingly." *Pac. Ins. Co. v. Am. Nat'l Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998) (quoting 11 Wright et. al, *Federal Practice and Procedure* § 2810.1, at 124 (2d ed.1995)). It may be granted for three reasons: (1) to follow an intervening change in controlling law; (2) on account of new evidence; or (3) "to correct a clear


error of law or prevent manifest injustice.” Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993).

Having reviewed the email included in the Defendant’s motion to amend its notice of removal, the Court finds that the email is an “other paper” from which the Defendant could ascertain that the amount in controversy exceeds \$75,000.

For the above reason, the Defendant’s motion to amend its notice of removal is granted. Further, the Defendant’s motion for reconsideration of the Court’s July 15, 2014 Order of Remand is granted. It appears that this case was calendared for trial in state court when removed, the Court will schedule this case for trial during the **November/December 2014** term of court.

IT IS SO ORDERED.

August 21, 2014
Columbia, South Carolina


Joseph F. Anderson, Jr.
United States District Judge