

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Robert S. Hardy, Henry Johnson, and)
Southwest Pottery, LLC,)
Plaintiffs,) Civil Action No. 410-cv-1768-TLW-SVH
vs.)
HRM Florence, LLC, TMB Florence, LLC,)
Hobby Lobby Stores, Inc., Richard Cassett,)
and Todd Blair)
Defendant.)

)

ORDER

On July 7, 2010, this action was removed to this Court based on the assertion of diversity jurisdiction under 28 U.S.C. § 1332. (Doc. # 1). This matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Shiva V. Hodges, to whom this case had previously been assigned. In the Report, the Magistrate Judge recommends that the plaintiff’s motion to remand, (doc. # 11), be granted, and that no costs be imposed. (doc. # 28). Objections to the Report were filed by the defendant Hobby Lobby on September 20, 2010. (Doc. # 29). A Reply to the Objections was filed by the plaintiffs on September 22, 2010. (Doc. # 30). In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections...The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court’s review of the Report thus depends on whether or not

objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992)

(citations omitted).

In light of the standard set forth in Wallace, the Court has reviewed, de novo, the Report and the objections. After careful review of the Report and objections thereto, the Court **ACCEPTS** the Report. (Doc. # 28). Furthermore, after review of the defendant's Objections, this Court determines that the magistrate judge correctly considered the plaintiff's stipulation as to damages and response to special interrogatory on jurisdictional facts a clarification of the amount sought. In response to the magistrate judge's question, "At the time this matter was initially filed in state court, was it plaintiffs' intent to pursue monetary damages in excess of \$75,000?" the plaintiffs answered in the negative. (Doc. # 27). Accordingly, this Court lacks subject matter jurisdiction for failure to satisfy the amount in controversy requirement. Furthermore, this Court agrees with the magistrate judge's recommendation that no costs be imposed in this matter. Therefore, the plaintiffs' motion to remand is **GRANTED**, (Doc. # 11), and no costs are imposed.

IT IS SO ORDERED.

s/Terry L. Wooten
TERRY L. WOOTEN
United States District Judge

October 7, 2010
Florence, South Carolina