

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

Donna M. Farnsworth,) C.A. No. 6:08-2756-HMH
)
 Plaintiff,) **OPINION & ORDER**
)
 vs.)
)
Wal-Mart Stores East, LP, and)
Wal-Mart Stores, Inc.)
)
 Defendants.)

This matter is before the court on Donna M. Farnsworth's ("Plaintiff") motion to remand. For the reasons set forth below, the court grants the Plaintiff's motion.

The Plaintiff originally filed suit in the Court of Common Pleas of Greenville County, South Carolina, alleging a negligence claim on July 2, 2008. (Compl., generally.) The Plaintiff filed an amended complaint on August 7, 2008. The Plaintiff alleges that she was injured on July 3, 2005, when she was shopping at a Wal-Mart Supercenter and a jar of salad dressing rolled off a shelf and injured her toe. (Am. Compl. ¶ 4.) In the prayer for relief of the amended complaint, the Plaintiff seeks "actual and punitive damages in an amount to be determined by a jury, for costs and disbursements of this action, and for such and further relief as the Court deems proper, all together in an amount not to exceed Seventy-Four Thousand Nine Hundred Ninety-Nine and 99/100ths (\$74,999.99) Dollars." (Am. Compl. Prayer for Relief A.)

The Defendants removed this action to this court on August 5, 2008. The Plaintiff filed a motion to remand on October 2, 2008, arguing that the case must be remanded because the amount in controversy does not exceed \$75,000 for diversity jurisdiction under 28 U.S.C.

§ 1332. (Pl.s' Mem. Supp. Remand 2.) The Defendant agrees to a remand provided that Plaintiff's recovery cannot exceed \$75,000.00 in damages, including actual and punitive damages.

It is therefore

ORDERED that the Plaintiff's motion to remand, docket number 13, is granted. The court instructs the Clerk of Court to remand this case to the Court of Common Pleas of Greenville County, South Carolina. Furthermore, with respect to all claims, the Plaintiff is barred from recovering a total amount of damages, including actual damages and punitive damages, of Seventy-Four Thousand Nine Hundred Ninety-Nine Dollars and Ninety-Nine Cents (\$74,999.99), exclusive of interest and costs.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
United States District Judge

Greenville, South Carolina
October 21, 2008