

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ARMANDO AGUILAR : CIVIL ACTION  
 :  
 v. :  
 :  
 W.E.I. EQUIPMENT : NO. 03-CV-1751

MEMORANDUM AND ORDER

J. M. KELLY, J.

APRIL 17, 2003

Before the Court is Plaintiff's Motion to Remand to the Court of Common Pleas of Philadelphia County, an action removed by the defendant. The basis for the remand is that the Complaint avers that the damages herein exceed \$50,000, but did not state expressly that the damages exceeded \$75,000, the federal threshold. The Complaint avers that the plaintiff was injured by a defective saw conveyor which was left in the defendant's control, custody and care. The Complaint further avers that the defects of the saw conveyor caused injury to the plaintiff, including, but not limited to: amputation of the distal phalanz of the middle finger of his left hand requiring skin grafting, radiating paresthesias, decreased strength and mobility of his left hand, hypesthesia in the volar and dorsal aspect of the left digit, mental pain and suffering, and exacerbation of conditions. The plaintiff further avers that as a result of plaintiff's injuries, he suffers and will suffer from physical, mental anguish, pain and suffering and inconvenience. Plaintiff

complains that he suffers and may continue to suffer shock and injury to the nerves and nervous system and may continue to suffer emotional stress. Plaintiff avers that he has been deprived and may continue to be deprived of ordinary pleasures of life as a result of his injuries. Plaintiff further avers that he has been compelled to expend money for medical care and medicines. Plaintiff complains that the injuries he has suffered may result in the future loss of earning capacity.

In review of the foregoing averments, it is clear to the Court that the damages suffered by the plaintiff may well exceed \$75,000, and, therefore, jurisdiction in this Court does exist pursuant to 28 U.S.C. § 1332(a).

Plaintiff's Motion to Remand is DENIED.

BY THE COURT:

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JAMES MCGIRR KELLY, J.