

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

SEQUIEL SERRANO, et al. : CIVIL ACTION
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HUI MIN YANG, et al. : NO. 05-1852

MEMORANDUM AND ORDER

McLaughlin, J.

May 12, 2005

The issue before the Court is whether it has diversity jurisdiction under 28 U.S.C. § 1332(a)(1) over this removed case. The answer to this question depends upon whether the defendants established to a "legal certainty" that the amount in controversy exceeds \$75,000. Because I find that the defendants did not satisfy their burden, I will grant the plaintiffs' motion to remand.

This matter was initially filed in the Court of Common Pleas of Philadelphia County, Pennsylvania on January 6, 2005. The defendants filed a timely notice of removal to the Eastern District of Pennsylvania based on diversity jurisdiction. On April 27, 2005, the plaintiffs filed a motion for remand based upon their "certification" that the amount in controversy does not exceed \$75,000 exclusive of interest and costs. The defendants filed a response in opposition to the motion to remand in which they argue that the amount in controversy has been satisfied because the civil cover sheet that was attached to the

plaintiffs' state court complaint indicates that the amount in controversy exceeds \$50,000 per plaintiff.

The state court complaint alleges that the plaintiffs were injured in a car accident as the result of the defendants' negligence. According to the complaint, on or about February 9, 2003, the plaintiff Sequiel Serrano was driving a motor vehicle in which the plaintiffs Linette Corchado and Ezequiel Serrano were passengers. The defendant Jie Lu was operating another vehicle which allegedly collided with the plaintiffs' vehicle. The defendant Hui Min Yang owns the vehicle that Mr. Lu was driving, and the plaintiffs allege that Mr. Lu was operating the vehicle within the course and scope of his employment or agency with Mr. Yang.

The plaintiff Ezequiel Serrano is a minor, and this action is brought on his behalf by his parent and natural guardian Linette Corchado. The complaint alleges that the minor plaintiff suffered serious and permanent injuries, as well as past and future medical expenses. The two adult plaintiffs, Linette Corchado and Sequiel Serrano, seek compensation for damages on their own behalf, including damages related to serious and permanent injuries; past and future medical expenses; past and future lost earnings and lost earning capacity; past and future pain and suffering; embarrassment and humiliation; disfigurement and scarring; and past and future loss of enjoyment

of life. Additionally, Ms. Corchado seeks damages for medical expenses that she has paid on behalf of the minor plaintiff, as well as compensation for loss of assistance, aid, society and consortium of her minor child.

A defendant may remove a case to federal court if the federal court could have originally exercised jurisdiction over the matter. 28 U.S.C. § 1441(a). The federal court has original jurisdiction when the parties are citizens of different states and the amount in controversy exceeds \$75,000 exclusive of costs and interest. 28 U.S.C. § 1332(a)(1).

Jurisdiction attaches at the time of removal and cannot be defeated by subsequent events or amendments to the complaint; however, the Court must distinguish between subsequent events that change the amount in controversy and subsequent revelations that the amount in controversy was not satisfied at the time the action was removed. See, e.g., St. Paul Mercury Indem. Co. v. Red Cab Co., 303 U.S. 283, 291-92 (1938); Meritcare, Inc. v. St. Paul Mercury Ins. Co., 166 F.3d 214, 217-18 (3d Cir. 1999). Here, the parties do not dispute that there is complete diversity of citizenship; however, the parties do dispute whether the amount in controversy requirement has been met.

As the party asserting jurisdiction, the defendants bear the burden of establishing that the case is properly before this Court, including establishing the amount in controversy.

Samuel-Bassett v. KIA Motors America, Inc., 357 F.3d 392, 396 (3d Cir. 2004); Meritcare, 166 F.3d at 222. The motion to remand must be granted unless the defendants show to a "legal certainty" that the amount in controversy exceeds the statutory minimum. KIA Motors, 357 F.3d at 397-98; see also Meritcare, 166 F.3d at 217. All doubts should be resolved in favor of remand. KIA Motors, 357 F.3d at 403; Meritcare, 166 F.3d at 217.

To assess the amount in controversy, the Court must begin by reviewing the complaint. KIA Motors, 357 F.3d at 398. Where, as here, the complaint does not demand a specific amount of damages, the Court must attempt to reasonably estimate the monetary value of the plaintiffs' claims. See id. at 398-99, 403.

Other than stating that the plaintiffs seek damages in excess of \$50,000, the complaint in this case is utterly devoid of details which would allow the Court to estimate the value of the plaintiffs' claims. The complaint does not describe the plaintiffs' injuries, the extent or cost of medical treatment that the plaintiffs received as a result of the accident, or the amount of the adult plaintiffs' lost wages. The description of the adult plaintiffs' injuries appears to be boilerplate, especially in light of the fact that the description is identical for both individuals.

Although the defendants must demonstrate that the

jurisdictional requirements have been satisfied, they did not provide any additional information regarding the nature or extent of the plaintiffs' injuries; rather, the defendants contend that the amount in controversy has been satisfied based on the civil cover sheet attached to the complaint. According to the defendants, the civil cover sheet indicates that the amount in controversy exceeds \$50,000 per plaintiff. The defendants then argue that the Court should multiply this figure by the number of plaintiffs, which the defendants incorrectly identify as five, and conclude that the amount in controversy is at least \$250,000.

First, the civil cover sheet indicates that the amount in controversy exceeds \$50,000¹; it does not say \$50,000 per plaintiff. Second, even if the civil cover sheet did indicate that the amount in controversy exceeds \$50,000 per plaintiff, the claims of multiple plaintiffs cannot be aggregated for purposes of meeting the amount in controversy requirement. Meritcare, 166 F.3d at 218.

Further, the plaintiffs certified in their reply memorandum that they are willing to stipulate that the amount of damages sought by each plaintiff is less than \$50,000. The Court may consider such a stipulation as clarifying the complaint. See

¹ It is customary practice in the Court of Common Pleas for Philadelphia County to indicate whether the amount in controversy exceeds \$50,000 because this is the minimum amount necessary to avoid mandatory referral to arbitration. See Pa.Phila.Civ.R. 1301, Pa.R.Civ.P. 1021(c).

Meritcare, 166 F.3d at 223.

For the foregoing reasons and in light of the plaintiffs' representation in the reply memorandum, the Court will grant the motion to remand.

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ORDER

AND NOW, this 12th day of May, 2005, upon consideration of the plaintiffs' Motion to Remand (Docket No. 4), the defendants' response thereto, and the plaintiffs' reply, IT IS HEREBY ORDERED that said motion is GRANTED for the reasons given in a memorandum of today's date. IT IS FURTHER ORDERED that the case is remanded to the Court of Common Pleas for Philadelphia County for all further proceedings.

BY THE COURT:

/s/ Mary A. McLaughlin

MARY A. McLAUGHLIN, J.