

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

RAYMOND SHAW and : CIVIL ACTION  
BARBARA SHAW :  
 :  
v. :  
 :  
THRIFT DRUG, INC., trading as : NO. 98-5170  
ECKERD DRUGS and J.C. PENNEY :  
PROPERTIES, INC. :

MEMORANDUM ORDER

AND NOW, TO WIT, this day of December, 1998,  
presently before the court is plaintiffs Raymond and Barbara  
Shaw's ("Plaintiffs") Motion to Remand to State Court Pursuant to  
28 U.S.C.A. § 1447(c) and defendants Thrift Drug, Inc.'s, trading  
as Eckerd Drugs, and J.C. Penney Properties Inc.'s ("Defendants")  
response thereto. For the reasons set forth below, the court  
will deny the motion.

Plaintiffs' challenge to Defendants' removal of the  
instant action to this federal court is based on their assertion  
that no federal jurisdiction exists under 28 U.S.C. § 1332.<sup>1</sup>  
Plaintiffs assert that their Complaint alleged only that damages  
exceeded \$50,000 and that Defendants have presented no facts to  
support their claim that the amount in controversy exceeds  
\$75,000. The court disagrees.

The court looks to the Complaint itself to determine  
the amount in controversy. Angus v. Shiley, 989 F.2d 142, 145

---

<sup>1</sup> District courts have jurisdiction over cases between  
citizens of different states when the amount in controversy is in  
excess of \$75,000. 28 U.S.C. § 1332. In the instant action,  
Plaintiffs only challenge the satisfaction of the jurisdictional  
amount. The parties do not dispute diversity of citizenship.

(3d Cir. 1993). In the Third Circuit, "the amount in controversy is not measured by the low end of an open-ended claim, but rather by a reasonable reading of the value of the rights being litigated." Id. at 146. The instant action arises out of injuries sustained by Plaintiffs as a result of Raymond Shaw's tripping and falling on Defendants' property. Plaintiffs' Complaint alleges the following damages:

- (1) that Raymond Shaw "sustained multiple injuries to his body, including, but not limited to his right arm, all of which have caused and will continue to cause him great pain and suffering." (Compl. ¶ 9.)
- (2) that "it is not possible at this time to ascertain with complete accuracy the full extent to which his physical and mental condition has been and will be in the future impaired." (Compl. ¶ 10.)
- (3) that Raymond Shaw "has been obliged to expend and continues to be obliged to expend, various sums of money, in an amount not yet fully liquidated, for medicine and medical attention in endeavoring to treat and cure himself of his injuries, all of which has been to his financial damage and loss." (Compl. ¶ 11.)
- (4) that Raymond Shaw "suffered and underwent great pain, and was hindered and prevented from performing and transacting his usual affairs and

business." (Compl. ¶ 12.)

(5) that Raymond Shaw "has been and continues to be deprived of the assistance and society of his wife, all of which has been to his damage and loss." (Compl. ¶ 13.)

(6) that Barbara Shaw "has been obliged and continues to be obliged to expend, various sums of money, in an amount not yet fully liquidated, for medicine and medical attention in endeavoring to treat and cure [Raymond Shaw] of his injuries, all of which has been to her financial damage and loss." (Compl. ¶ 15.)

(7) that Barbara Shaw "has been deprived of the assistance and society of her husband, all of which has been to her great financial damage and loss." (Compl. ¶ 16.)

In addition, Plaintiffs rejected a proposed stipulation by Defendants which would have bound Plaintiff to limit any potential recovery to an amount not greater than \$75,000. (Def. Mem. of Law Opp. Pl.'s Mot. to Remand, Ex. A.)

In light of Plaintiffs' alleged damages for bodily injury, medical bills, pain and suffering, loss of earnings and loss of consortium and their refusal to agree to limit their recovery to an amount under \$75,000, the court finds that a reasonable reading of the value of the rights being litigated exceeds \$75,000. Thus, the court finds that federal diversity

jurisdiction exists under 28 U.S.C. § 1332.

Accordingly, IT IS ORDERED that Plaintiffs' motion for remand is DENIED.

---

LOUIS C. BECHTLE, J.