

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

WILLIAM BITTORF and KATHY
BITTORF,

Plaintiffs,

v.

Case No. 6:18-cv-632-Orl-37TBS

LEXINGTON INSURANCE
COMPANY,

Defendant.

ORDER

In the instant action, William and Kathy Bittorf (collectively, “**Plaintiffs**”) filed a complaint in state court asserting a claim against Lexington Insurance Company (“**Defendant**”) for damages caused by breaching an insurance policy. (Doc. 2.) Defendant then removed this case here, invoking the Court’s diversity jurisdiction under 28 U.S.C. § 1332. (Doc. 1.) On April 23, 2018, Plaintiffs moved to remand this action back to state court, contending that Defendant’s allegations concerning the amount-in-controversy (“**AIC**”) were deficient. (Doc. 4 (“**Motion**”).) On referral, U.S. Magistrate Judge Thomas B. Smith finds that Defendant failed to meet its burden of proving the AIC by a preponderance of the evidence, and thus, he recommends the Court grant the Motion and remand this case. (Doc. 28 (“**R&R**”).)

No party objected to the R&R, and the time for doing so has now passed. Absent objections, the Court has examined the R&R only for clear error. *See Wiand v. Wells Fargo*

Bank, N.A., No. 8:12-cv-557-T-27EAJ, 2016 WL 355490, at *1 (M.D. Fla. Jan. 28, 2016); *see also Marcort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006). Finding no clear error, the Court concludes that the R&R is due to be adopted in its entirety. Thus, the Motion is due to be granted and this case is due to be remanded.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. U.S. Magistrate Judge Thomas B. Smith's Report and Recommendation (Doc. 28) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. Plaintiffs William and Kathy Bittorf's Motion for Remand (Doc. 4.) is **GRANTED**.
3. This case is **REMANDED** to the Circuit Court for the Seventh Judicial Circuit of Florida, in and for Volusia County, Florida.

DONE AND ORDERED in Chambers in Orlando, Florida, on June 13, 2018.




ROY B. DALTON JR.
United States District Judge

Copies to:
Counsel of Record
The Circuit Court of the Seventh Judicial Circuit of Florida,
in and for Volusia County, Florida.