

THOUGHT LEADERSHIP

News

## COURT REMANDS LAWSUIT AFTER PLAINTIFF STIPULATES THE AMOUNT IN CONTROVERSY DOES NOT EXCEED \$75,000

Newsbrief

04 JUN 2013

In a peculiar ruling, Federal District Court Judge Lee Rosenthal (Houston Division of the Southern District) remanded the second of two lawsuits regarding an insurance dispute back to state court in *Williams v. Companion Prop. & Cas. Ins. Co.*, CIV.A. H-13-733, 2013 WL 2338227 (S.D. Tex. May 27, 2013). In March of 2012 Plaintiff sued her insurance company, the adjuster, and the driver who allegedly damaged her property. Plaintiff's petition alleged violations of the Texas Deceptive Trade Practices Act and the Texas Insurance Code. The Defendants removed the case to federal court and, shortly thereafter, Plaintiff settled with the driver. Afterward, Plaintiff filed a motion for non-suit with regard to the claims against her insurance company and the adjuster. The motion for non-suit was granted.

In early 2013, Plaintiff filed a second state court suit asserting the same claims against the insurance company and adjuster which she previously non-suited. Importantly, the second petition included a stipulation that the damages in the second suit were less than \$75,000. The insurance company and adjuster removed the lawsuit on the basis of diversity of citizenship and they argued that Plaintiff's stipulation was ineffective because it was not filed until after the first lawsuit and is therefore a post-removal stipulation. The Court disregarded Defendants' argument and held: "the fact this court had jurisdiction over the first lawsuit, which was dismissed, does not determine whether the court has jurisdiction over the pending second lawsuit. Federal jurisdiction must be present in each suit." The court proceeded to find the amount in controversy did not exceed the jurisdictional requirements necessary to maintain federal jurisdiction and remanded the case to state court.