

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-60250  
Summary Calendar

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EMILY SCIPPER

Plaintiff - Appellant

v.

BUNGE CORP, et al.

Defendants

BUNGE CORP; DAVID TOLLIVER

Defendants - Appellees

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Appeal from the United States District Court  
for the Northern District of Mississippi, Oxford  
USDC No. 2:00-CV-43-P-B  
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August 23, 2002

Before KING, Chief Judge, and JOLLY and STEWART, Circuit Judges.

PER CURIAM:\*

Plaintiff-appellant Emily Scipper appeals the district court's summary judgment in favor of defendants-appellants Bunge Corporation (Bunge) and David Tolliver.

Scipper's first argues that the district court erred in refusing to remand this case to state court. Scipper's argument utterly fails to deal with the inescapable fact that the last sentence of her complaint asks for "judgment of, from and against the Defendants, jointly and severally, in the amount of

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\* Pursuant to 5<sup>TH</sup> CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5<sup>TH</sup> CIR. R. 47.5.4.

\$150,000." As the district court pointed out, the amount requested from each defendant is greater than \$75,000. The minimum jurisdictional amount requirement is thus satisfied.

Scipper's second argument is that the district court erred in finding that Tolliver was fraudulently joined. The test is, as Scipper recognizes, whether there is no possibility that the plaintiff will be able to establish a cause of action against the in-state defendant. Tolliver's affidavit, which Scipper does not address and did not counter, makes it perfectly clear that the test has been satisfied and that Tolliver was fraudulently joined.

Finally, Scipper argues that summary judgment was not proper. Again, Tolliver's affidavit, not countered by Scipper, makes it clear that Bunge had no responsibility for the placement of the cars that allegedly obstructed her view.

The judgment of the district court is AFFIRMED.

No. 02-60250

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