

**UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA**

Tanz Billie Creswell v. Lowe's Home Centers, LLC

No. 5:25-cv-00419-PA-SP, United States District Court for the Central District of California (March 12, 2025)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 CENTRAL DISTRICT OF
CALIFORNIA 10 11 Tanz Billie Creswell, Case No.: 5:25-cv-00419-PA-SP [San Bernardino
County Superior Court 12 Plaintiff, Case No.: CIVVS2401077] 13 v. [Assigned to Hon. Percy
Anderson, District Judge; Hon. Sheri Pym, Magistrate Judge] 14 Lowe's Home Centers, LLC and
DOES 1 to 20, ORDER GRANTING THE PARTIES' 15 STIPULATION TO CAP PLAINTIFF'S
Defendants.

JUDGMENT, AWARD, OR 16 RECOVERY AND TO REMAND 17 18 Complaint Filed:
September 20, 2024 19 20 The Court, having read and considered the Parties' Stipulation to Cap
Plaintiff's 21 Judgment, Award, or Recovery and to Remand, hereby ORDERS as follows: 22 I.
BACKGROUND 23 On or about September 20, 2024, Plaintiff TANZ BILLIE CRESWELL 24
(hereinafter "Plaintiff") commenced the above-entitled civil action in the Superior 25 Court for the
County of San Bernardino by filing a Complaint therein entitled Tanz 26 Billie Creswell v. Lowe's
Home Centers, LLC and DOES 1 to 20, Case No. 27 CIVVS2401077.

28 /// 1 Plaintiff's Complaint for personal injury arises from an alleged incident on 2 September
30, 2022, at Defendant LOWE'S HOME CENTERS, LLC's ("Lowe's") 3 store in San Bernardino
County, California. 4 On July 3, 2024, prior to filing the Complaint and prior to service of the
same 5 on Defendant Lowe's, Plaintiff's counsel sent a letter to Defendant Lowe's which 6
included a written settlement demand of \$283,000 which included \$8,006.00 in 7 itemized past
medical specials, claimed future medical expenses of \$125,000.00, for a 8 total of \$133,006.00 in
claimed medical expenses.

Plaintiff further demanded past and 9 future pain and suffering of \$150,000. Based on this, Lowe's
determined that the 10 amount in controversy exceeded the \$75,000.00 statutory minimum.
Accordingly, 11 Lowe's removed the matter to federal court pursuant to 28 U.S.C. §§1332, 1441,
and 12 1367, on February 14, 2025. 13 The Parties have now agreed and stipulated to limit any
and all recovery of 14 damages by plaintiff TANZ BILLIE CRESWELL to \$75,000.00, exclusive
of costs of 15 suit or interest, as evidenced by the Stipulation to Cap Plaintiff's Judgment, Award,
or 16 Recovery and To Remand, executed by plaintiff TANZ BILLIE CRESWELL, 17
individually and by and through her attorneys of record, and defendant LOWE'S 18 HOME
CENTERS, LLC by and through its attorneys of record.

Accordingly, the 19 parties request an order from this Court remanding the case to the San Bernardino 20 County Superior Court, Case No. CIVVS2401077. 21 II. ANALYSIS 22 United States Code, Title 28, Section 1447(c), provides that “[i]f at any time 23 before final judgment it appears that the district court lacks subject matter jurisdiction, 24 the case shall be remanded.” (Emphasis added).

In light of the Parties’ stipulation 25 limiting any and all recovery by Plaintiff to \$75,000.00 or less, this Court lacks subject 26 matter jurisdiction and must, therefore, remand the case to state court pursuant to 28 27 U.S.C. § 1447(c). See *Bruns v. NCUA* 122 F.3d 1251, 1257 (9th Cir. 1997) (“Section 28 1447(c) is mandatory, not discretionary.”) 1 III. ORDER OF THE COURT 2 1.

Plaintiff’s total recovery, if any, from Defendant LOWE’S HOME 3 CENTERS, LLC, for any injuries, damages, harms, or losses resulting from the alleged 4 incident that occurred on Defendant’s premises on or about September 30, 2022, and 5 which are the subject of the within action (including formerly San Bernardino County 6 Superior Court Case No.: CIVVS2401077) (the “Litigation”), including but not limited 7 to economic and non-economic damages, exclusive of any award of costs of suit or 8 interest, is hereby capped at \$75,000.00.

9 2. If any judgment or award, entered in her favor and against Defendant 10 LOWE’S HOME CENTERS, LLC, in the Litigation should exceed \$75,000.00, 11 exclusive of any award of costs of suit or interest, Plaintiff has knowingly and 12 voluntarily waived the right to claim that portion of her final judgment or award which 13 exceeds \$75,000.00. 14 3. Should any judgment or award, exclusive of any award of costs of suit or 15 interest be entered in her favor and against Defendant LOWE’S HOME CENTERS, 16 LLC in the Litigation, in excess of \$75,000.00, Plaintiff shall execute any necessary 17 documents to reduce any such award or judgment to \$75,000.00, and is barred from 18 executing on any amount of the award or judgment in excess of \$75,000.00.

19 4. Pursuant to the Parties’ Stipulation, because this matter no longer exceeds 20 \$75,000.00, this Court no longer has subject matter jurisdiction and the matter is 21 hereby REMANDED to the Superior Court for the State of California, County of San 22 Bernardino, Case No.: CIVVS2401077. This Order shall be accorded full force and 23 effect in the Superior Court of the State of California, County of San Bernardino, Case 24 No.: CIVVS2401077.

25 /// 26 /// 27 /// 28 /// 1 5. All pending dates in the Federal action are hereby vacated. 2 3 IT IS SO ORDERED. 4 5 Dated: March 12, 2025 _____ Percy Anderson 6 United States District Judge 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28