

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 17-7108

September Term, 2017

1:14-cv-00405-RJL

Filed On: May 23, 2018

Lena Terrell Hardaway,

Appellant

v.

Cross State Moving and Shlomo Dostekam,

Appellees

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BEFORE: Henderson, Griffith, and Srinivasan, Circuit Judges

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs filed by the parties. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of the foregoing, and the motion to appoint counsel, the motion to proceed without an appellee brief, and appellee's motion for leave to late file his brief, it is

ORDERED that the motion to appoint counsel be denied. In civil cases, appellants are not entitled to appointment of counsel when they have not demonstrated sufficient likelihood of success on the merits. It is

FURTHER ORDERED that appellee's motion to late file his brief be granted, and appellant's motion to proceed without that brief be denied. The Clerk is directed to file the lodged brief. It is

FURTHER ORDERED AND ADJUDGED that the district court's May 31, 2017 order dismissing appellant's complaint for lack of jurisdiction be affirmed. Because appellant's complaint raised no cognizable claims under federal law, federal question jurisdiction pursuant to 28 U.S.C. § 1331 was not proper. Appellant also failed to

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demonstrate that the amount in controversy in this case exceeded \$75,000; therefore, diversity jurisdiction pursuant to 28 U.S.C. § 1332(a) was also not proper. Although appellant’s request for punitive damages raised her total damages claim above \$75,000, the district court correctly concluded that the punitive damages claim – which exceeded appellant’s actual damages by a factor of approximately 490 – was unconstitutionally excessive. See Pacific Mut. Life Ins. Co. v. Haslip, 499 U.S. 1, 23-24 (1991) (noting that there is a “line” beyond which excessive punitive damages become unconstitutional); see also Kahal v. J.W. Wilson & Associates, Inc., 673 F.2d 547, 549 (D.C. Cir. 1982) (noting that plaintiffs may not “shoehorn essentially local actions into federal court through extravagant or invalid punitive damage claims”). Like the district court, this court makes no findings about whether the parties are geographically diverse as required by 28 U.S.C. § 1332(a)(1).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam