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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Thomas Navarro, et al.,

10 Plaintiffs,

11 v.

12 American Family Mutual Insurance
13 Company, et al.,

14 Defendants.

No. CV17-1609-PHX-DGC

ORDER

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16 Defendant American Family removed this case on the basis of diversity
17 jurisdiction. At the case management conference on July 14, 2017, the Court discussed
18 the basis for its jurisdiction with the parties. Plaintiffs explained that although the
19 appraised loss amount in this case was about \$30,000, all but about \$7,000 had been paid
20 by Defendant before removal, and Plaintiffs have made a settlement demand for a
21 remaining \$45,000. Thus, in Plaintiffs' view, the amount in controversy is well below
22 \$75,000. Defendant believes the value of the case exceeds \$75,000, apparently because
23 Plaintiffs make claims for punitive damages and attorneys' fees.

24 For a federal court to exercise removal jurisdiction under 28 U.S.C. § 1446, the
25 amount in controversy must "exceed[] the sum or value of \$75,000, exclusive of interest
26 and costs." 28 U.S.C. § 1332(a). Courts "strictly construe the removal statute against
27 removal jurisdiction." *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992). "The
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1 strong presumption against removal jurisdiction means that the defendant always has the
2 burden of establishing that removal is proper.” *Id.*

3 When a state court complaint does not clearly plead the requisite amount in
4 controversy and the plaintiff contests the amount, the removing defendant “must provide
5 evidence establishing that it is more likely than not that the amount in controversy
6 exceeds [\$75,000].” *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398, 404 (9th Cir.
7 1996) (quotation marks omitted). A defendant cannot establish removal jurisdiction by
8 speculation and conjecture. *Ibarra v. Manheim Invs., Inc.*, 775 F.3d 1193, 1197 (9th Cir.
9 2015).

10 The mere possibility of a punitive damages award is insufficient to prove that the
11 amount in controversy requirement has been met. *Burk v. Med. Sav. Ins. Co.*, 348 F.
12 Supp. 2d 1063, 1069 (D. Ariz. 2004). Plaintiffs’ complaint does not specify an amount of
13 punitive damages sought, and Plaintiffs’ counsel asserts that he has made an overall
14 settlement demand of \$45,000. The Court concludes that the claim for punitive damages
15 does not satisfy the amount in controversy requirement.

16 Attorneys’ fees are part of the amount in controversy “if authorized by statute or
17 contract,” *Kroske v. U.S. Bank Corp.*, 432 F.3d 976, 980 (9th Cir. 2005), but Defendant
18 can only speculate as to the ultimate amount of recoverable attorneys’ fees in this case,
19 and such speculation cannot establish the jurisdiction of this Court. *See Ibarra*, 775 F.3d
20 at 1197.

21 **IT IS ORDERED** that this case is remanded to Maricopa County Superior Court.

22 Dated this 17th day of July, 2017.

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27 David G. Campbell
28 United States District Judge