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**United States District Court  
Central District of California**

ARTHUR OGANESYAN,  
Plaintiff,  
v.  
AT&T MOBILITY SERVICES, LLC;  
DOES 1-50, inclusive,  
Defendants.

Case No. 2:14-cv-05184-ODW(JCx)

**ORDER DENYING MOTION TO  
REMAND [11]**

**I. INTRODUCTION**

Plaintiff Arthur Oganesyanyan moves to remand this action to Los Angeles County Superior Court for lack of subject-matter jurisdiction. (ECF No. 11.) Oganesyanyan argues that Defendant AT&T Mobility Services, LLC failed to establish diversity jurisdiction under 28 U.S.C. § 1332. For the reasons discussed below, the Court finds that the amount in controversy exceeds \$75,000 and there is diversity of citizenship. Therefore, this Court **DENIES** Plaintiff’s Motion to Remand.<sup>1</sup> (ECF No. 11.)

**II. FACTUAL BACKGROUND**

Oganesyanyan’s claims arise from the termination of his employment. On May 30, 2014, Oganesyanyan filed this action in state court, alleging two state-law violations:

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<sup>1</sup> After carefully considering the papers filed in support of and in opposition to the Motion, the Court deems the matter appropriate for decision without oral argument. Fed. R. Civ. P. 78; L.R. 7-15.

1 (1) wrongful discharge in violation of public policy, and (2) violation of the Business  
2 & Professions Code § 17200. (Not. of Removal Ex. A). He alleges that he worked for  
3 AT&T as a customer sales representative for nearly three years prior to being  
4 wrongfully terminated in June 2012. (Compl. ¶¶ 10, 14.)

5 Oganesyian alleges that during his employment he suffered from various health  
6 conditions of which his employers were aware. (*Id.* ¶ 11.) He suffered injuries to his  
7 knees and ankles that required certain work restrictions. (*Id.*) His supervisors  
8 provided him with a stool but asked him not to use it when customers were in the  
9 store. (*Id.*) On May 30, 2012, he injured his knee while helping a customer.  
10 (*Id.* ¶ 13.) His doctor stated that he needed surgery and possibly three to six months  
11 off work. (*Id.*) He informed his managers of his doctor’s orders and gave them a  
12 medical certification that stated his work duties should be light for three weeks. (*Id.*)  
13 On June 7, 2012, AT&T terminated his employment. (*Id.* ¶ 14.)

14 On May 30, 2014, Oganesyian commenced this action in Los Angeles County  
15 Superior Court. (Not. of Removal Ex. A.) AT&T removed the action to this Court on  
16 July 3, 2014, on the basis of diversity jurisdiction under 28 U.S.C. § 1332.  
17 (ECF No. 1.) On August 19, 2014, Oganesyian moved to remand this action.  
18 (ECF No. 11.) AT&T timely opposed. (ECF No. 13.) Oganesyian’s Motion is now  
19 before the Court for decision.

### 20 III. LEGAL STANDARD

21 Federal courts are courts of limited jurisdiction, having subject-matter  
22 jurisdiction only over matters authorized by the Constitution and Congress. U.S.  
23 Const. art. III, § 2, cl. 1; *e.g.*, *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S.  
24 375, 377 (1994). A suit filed in state court may be removed to federal court if the  
25 federal court would have had original jurisdiction over the suit. 28 U.S.C. § 1441(a).  
26 But courts strictly construe the removal statute against removal jurisdiction, and  
27 “[f]ederal jurisdiction must be rejected if there is any doubt as to the right of removal  
28 in the first instance.” *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992). The

1 party seeking removal bears the burden of establishing federal jurisdiction. *Durham v.*  
2 *Lockheed Martin Corp.*, 445 F.3d 1247, 1252 (9th Cir. 2006) (citing *Gaus*, 980 F.2d  
3 at 566).

4 Federal courts have original jurisdiction where an action presents a federal  
5 question under 28 U.S.C. § 1331, or diversity of citizenship under 28 U.S.C. § 1332.  
6 A defendant may remove a case from a state court to a federal court pursuant to the  
7 federal removal statute, 28 U.S.C. § 1441, on the basis of federal question or diversity  
8 jurisdiction. To exercise diversity jurisdiction, a federal court must find complete  
9 diversity of citizenship among the adverse parties, and the amount in controversy must  
10 exceed \$75,000, usually exclusive of interest and costs. 28 U.S.C. § 1332(a).

#### 11 IV. DISCUSSION

12 The parties dispute whether the amount in controversy and citizenship  
13 requirements for diversity jurisdiction have been satisfied. Oganessian has not  
14 specified the amount of damages he seeks. Therefore, as the proponent of federal  
15 jurisdiction, AT&T bears the burden of establishing that the amount in controversy  
16 exceeds \$75,000 and the citizenship of the parties is diverse. *See Matheson v.*  
17 *Progressive Specialty Ins. Co.*, 319 F. 3d 1089, 1090 (9th Cir. 2003).

18 AT&T notes that Oganessian seeks compensation for lost earnings, emotional  
19 distress, punitive damages, and attorney’s fees and contends that these damages, in the  
20 aggregate, satisfy the amount in controversy requirement. AT&T also provided  
21 information to establish diversity of citizenship between the parties. This Court  
22 considers each issue in turn.

#### 23 A. Amount in Controversy

24 The Court finds that when aggregating all of the damages Oganessian seeks the  
25 amount in controversy exceeds the jurisdictional minimum.

##### 26 1. *Lost earnings*

27 Oganessian alleges that, “[a]s a proximate result of the wrongful acts of  
28 defendants, and each of them, Plaintiff has suffered and continues to suffer actual,

1 consequential, and incidental financial loses, including without limitation, loss of  
2 salary and benefits . . . .” (Compl. ¶ 19.) AT&T contends that Oganesyany’s lost  
3 earnings from the date of his termination through the date of removal of this action is  
4 \$65,260. (Opp’n. ¶ 6.) AT&T reached this number by doubling Oganesyany’s annual  
5 salary of \$32,630.00 because his termination date was approximately two years ago.  
6 (Begue Decl. ¶ 5.) The Court agrees with AT&T’s estimate of back pay since it takes  
7 into account the total wages Oganesyany would have earned from the date he ceased  
8 working for AT&T on June 7, 2012, to the time of removal. Moreover, it is not  
9 unreasonable to expect these compensatory damages to exceed \$65,260 as this case  
10 approaches trial. *Simmons v. PCR Tech.*, 209 F. Supp. 2d 1029, 1032 (N.D.  
11 Cal. 2002). Therefore, Oganesyany’s claims of lost earnings are \$65,260 of the  
12 \$75,000 jurisdictional minimum.

13 2. *Emotional-distress and punitive damages*

14 AT&T contends that emotional-distress damages and punitive damages will  
15 meet the amount in controversy requirement when coupled with compensatory  
16 damages. (Not. of Removal ¶ 18.) In determining the amount in controversy, the  
17 Court may include the request for punitive damages and emotional-distress damages if  
18 a plaintiff may recover them under the applicable law. *Gibson v. Chrysler Corp.*,  
19 261 F.3d 927, 947 (9th Cir. 2001); *Simmons v. PCR Tech.*, 209 F. Supp. 2d 1029,  
20 1033–34 (N.D. Cal. 2002). California law allows the recovery of punitive damages  
21 based on FEHA claims, wrongful termination, and intentional infliction of emotional  
22 distress. *Tameny v. Atl. Richfield Co.*, 27 Cal. 3d 167, 176 (1980); *Simmons*, 209 F.  
23 Supp. 2d at 1033. To establish emotional-distress and punitive damages, “defendant  
24 may introduce evidence of jury verdicts in cases involving analogous facts.”  
25 *Simmons*, 209 F. Supp. 2d at 1033.

26 AT&T cites several California wrongful-termination cases. (*Id.*) All the  
27 Plaintiffs in these cases received large sums of punitive damages, some totaling over  
28 \$75,000. *See, e.g., Amigon v. Cobe Color Cosmetics*, No. BC378685 (Cal. Super. Ct.

1 Apr. 15, 2009) (\$52,000 in punitive damages for an employee who was terminated  
2 after taking medical leave). Oganessian argues that AT&T made no effort to analogize  
3 these cases to his case and disputes that they are analogous. (Mot. 8.)

4 The cases cited by AT&T are analogous to this case. The cases cited by AT&T  
5 include awards based on the very same FEHA violation that makes up Oganessian's  
6 claim: wrongful termination in violation of public policy of an employee who had to  
7 take medical leave. Since all the punitive-damage awards that AT&T proffers exceed  
8 \$50,000, it is plausible that Oganessian could be awarded a similar amount for his  
9 non-economic damages. Combined with the \$65,260.00 in lost earnings, Oganessian's  
10 potential punitive damages meet the amount-in-controversy requirement.

11 *3. Attorney's fees*

12 Oganessian also seeks to recover attorney's fees. (Compl. 6.) He argues that  
13 the Court should only consider attorney's fees accumulated at the time of removal  
14 because anything else would be too speculative. (Mot. 8.) This Court disagrees. So  
15 long as an underlying statute authorizes an attorney's fees award to a successful  
16 litigant, attorney's fees can be taken into consideration when determining the amount  
17 in controversy. *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1155 (9th Cir. 1998).  
18 Therefore, when calculating the amount in controversy the Court does not merely  
19 consider those fees which have already incurred; rather, it looks to the amount that can  
20 be reasonably estimated. *Simmons*, 209 F. Supp. 2d at 1035.

21 While AT&T has not provided this Court with enough evidence to surmise how  
22 much attorney's fees will be, the aggregate damages total resulting from lost earnings,  
23 emotional distress, punitive damages, and attorney's fees well exceeds the  
24 jurisdictional minimum.

25 **B. Diversity**

26 It is undisputed that Oganessian is a citizen of California. Rather, Oganessian  
27 attacks the credibility of Jackie Begue, who is the Senior Paralegal and Assistant  
28 Secretary for AT&T Mobility Corporation, the Manager of AT&T Mobility LLC.

1 (Mot. 4). Oganesyanyan claims that Begue is not able to establish the citizenship of  
2 AT&T because she lacks personal knowledge. (*Id.*) AT&T is a Limited Liability  
3 Corporation, and “an LLC is a citizen of every state of which its owners/members are  
4 citizens.” *Johnson v. Columbia Properties Anchorage, LP*, 437 F.3d 894, 899 (9th  
5 Cir. 2006). A party must list the citizenship of all the members of the LLC in order to  
6 sufficiently establish the citizenship of the LLC itself. *Rolling Greens MHP, L.P. v.*  
7 *Comcast SCH Holdings L.L.C.*, 374 F.3d 1020, 1022 (11th Cir. 2004).

8 Begue declared that Defendant is comprised of one member, AT&T Mobility II  
9 LLC. (Begue Decl. ¶ 3.) AT&T Mobility II LLC is itself also a limited liability  
10 company comprised of four members whose respective states of citizenship are  
11 Delaware, Georgia, and Texas. (Begue Supp. Decl. ¶ 5.) Begue outlined her role as  
12 the Senior Paralegal and Assistant Secretary for the Court. (*Id.* ¶ 4.) She explained  
13 that it is within the scope of her employment to have knowledge of company records  
14 regarding where the members of AT&T Mobility are incorporated and their principal  
15 places of business. (*Id.*) The Court finds that the information provided by AT&T and  
16 Begue is more than sufficient to establish complete diversity between parties.

17 **V. CONCLUSION**

18 For the reasons discussed above, the Court finds that there is subject-matter  
19 jurisdiction over this action under 28 U.S.C. § 1332. Accordingly, the Court **DENIES**  
20 Oganesyanyan’s Motion to Remand. (ECF No. 11.)

21 **IT IS SO ORDERED.**

22  
23 September 18, 2014

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27 **OTIS D. WRIGHT, II**  
28 **UNITED STATES DISTRICT JUDGE**