

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 17-1445 FMO (SKx)	Date	March 8, 2017
Title	Monica J. Trail v. Standard Insurance Company		

Present: The Honorable Fernando M. Olguin, United States District Judge

Cheryl Wynn

None

None

Relief Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorney Present for Plaintiff(s):

Attorney Present for Defendant(s):

None Present

None Present

Proceedings: (In Chambers) Order to Show Cause Re: Remand

Plaintiff Monica J. Trail (“plaintiff” or “Trail”) brought this action against defendant Standard Insurance Company (“defendant” or “Standard”) in Los Angeles County Superior Court on January 24, 2017. (See Dkt. 1-2, Complaint). Defendant removed the action on February 22, 2017, on diversity jurisdiction grounds under 28 U.S.C. § 1332. (See Dkt. 1, Notice of Removal at ¶ 6). In relevant part, 28 U.S.C. § 1332(a) provides that “district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different States[.]” Federal courts have a duty to examine jurisdiction *sua sponte* before proceeding to the merits of a case, see Ruhrigas AG v. Marathon Oil Co., 526 U.S. 574, 583, 119 S.Ct. 1563, 1569 (1999), “even in the absence of a challenge from any party.” Arbaugh v. Y&H Corp., 546 U.S. 500, 514, 126 S.Ct. 1235, 1244 (2006). The courts are presumed to lack jurisdiction unless the contrary appears affirmatively from the record. See DaimlerChrysler Corp. v. Cuno, 547 U.S. 332, 342 n. 3, 126 S.Ct. 1854, 1861 (2006).

Having reviewed the Notice of Removal, the court questions whether this case satisfies the requirements for diversity jurisdiction set forth in 28 U.S.C. § 1332(a). Specifically, the court is unable to evaluate the amount in controversy because defendant did not submit a copy of the “long-term disability policy” that forms the basis of plaintiff’s Complaint. (See Dkt. 1-2, Complaint at ¶ 7). In addition, defendant did not address whether plaintiff received any unemployment benefits, worker’s compensation benefits, or other benefits that constitute mitigation of damages and should be taken into account in determining the amount in controversy. See, e.g., Lamke v. Sunstate Equipment Co., LLC, 319 F.Supp.2d 1029, 1033 (N.D. Cal. 2004) (finding that the court “should engage in an inquiry into the facts with respect to mitigation of damages” in evaluating the amount in controversy in the context of removal); Melendez v. HMS Host Family Restaurants, Inc., 2011 WL 3760058, *2 (C.D. Cal. 2011) (remanding case where amount in controversy was not met after reducing potential lost wages by the amount of disability benefits plaintiff received).

