

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 17-2430 PSG (ASx) Date April 5, 2017

Title Arthur Mogilefsky v. Harry's, Inc.

Present: The Honorable Philip S. Gutierrez, United States District Judge

Wendy Hernandez

Not Reported

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiff(s):

Attorneys Present for Defendant(s):

Not Present

Not Present

Proceedings (In Chambers): Order to Show Cause re: Subject Matter Jurisdiction

Defendant Harry's Inc. removed this action to federal court on March 29, 2017. Dkt. # 1. However, it appears the Court may lack subject matter jurisdiction because:

- [X] Jurisdiction is asserted on the basis of diversity jurisdiction pursuant to 28 U.S.C. § 1332(a). A corporation is named as a party. The Notice of Removal is deficient because the Notice of Removal does not set forth the corporation's state(s) of incorporation *and* its principal place of business. 28 U.S.C. § 1332(c).
- [X] Jurisdiction is asserted on the basis of diversity jurisdiction pursuant to 28 U.S.C. § 1332(a), but the matter in controversy does not appear to exceed \$75,000, exclusive of interest and costs. The Complaint does not allege a specific amount in controversy, but Defendant alleges that the amount in controversy exceeds \$75,000 based on an email from Plaintiff to Defendant demanding \$20,000,000. When it is not evident from the face of the complaint that the alleged damages exceed \$75,000, a defendant must prove by a preponderance of the evidence that the jurisdictional threshold is met. *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1117 (9th Cir. 2004); *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398, 403–04 (9th Cir. 1996). Conclusory allegations that the amount in controversy is satisfied are insufficient. *Matheson v. Progressive Specialty Ins. Co.*, 319 F.3d 1089, 1090 (9th Cir. 2003) (per curiam). To proceed in federal court, Defendant must provide the Court with more information to establish the amount in controversy.

Accordingly, the Court orders Defendant to show cause in writing no later than **April 19, 2017** why this action should not be remanded to state court for lack of subject matter jurisdiction. Failure to respond by the above date will result in the Court remanding this action.

IT IS SO ORDERED.

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