

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 2:17-CV-04488-SVW-AGR

Date August 28, 2017

Title *Christian Kary v. Kenn Combs*

Present: The Honorable STEPHEN V. WILSON, U.S. DISTRICT JUDGE

Paul M. Cruz

N/A

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

N/A

N/A

Proceedings: IN CHAMBERS ORDER DENYING MOTION TO REMAND [12]

On December 5, 2016, plaintiff CHRISTIAN KARY (“Kary”) filed a complaint against Removing Defendants, among other defendants, in the Superior Court for the State of California, County of Los Angeles, entitled *Kary v. Quality Carriers, Inc., et al.*, Case No. BC642683 (the “Complaint”). Defendant Quality Carriers, Inc. removed the action to this Court. Plaintiff filed a motion to remand on July 14, 2017. For the following reasons, the motion is DENIED.

I. Legal Standard

Removal to Federal Court is proper when the parties possess a diversity of citizenship and the amount in controversy exceeds \$75,000.00. 28 U.S.C. § 1332(a)(1). A defendant or defendants to such an action filed in a State court may have the action removed to the district courts of the United States provided that “none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.” 28 U.S.C. § 1441(b)(2). A defendant desiring to remove any action from a state court shall file in the District Court of the United States a Notice of Removal “containing a short and plain statement of the grounds for removal.” 28 U.S.C. § 1446(a).

To support removal based on diversity jurisdiction, the defendant “has the burden of proving, by a preponderance of the evidence, that the amount in controversy exceeds \$75,000.” *Cohn v. Petsmart, Inc.*, 281 F.3d 837, 839 (9th Cir. 2002).

II. Discussion

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“A settlement letter is relevant evidence of the amount in controversy if it appears to reflect a reasonable estimate of the plaintiff’s claim.” *Id.* at 840. In this case, Plaintiff’s settlement demand letter claims medical expenses in the amount of \$649,530.32. *See* Dkt. No. 15 Ex. B. This is consistent with his complaint alleging severe spinal injuries and ongoing need for medical treatment. The Complaint alleges that “Plaintiff has received severe injuries to his nervous system...and that he will in the future suffer severe mental, physical and nervous pain and suffering.” *See* Dkt. No. 9 Ex. 2. This language supports an inference that the Plaintiff has suffered more than \$75,000 in damages. Accordingly, the Court finds by a preponderance that the amount in controversy exceeds \$75,000.

The only dispute regarding diversity citizenship is with regard to defendant Kenn Combs. The Court concludes based on the Defendant Comb’s declaration and driver’s license that he is a citizen of Oregon for diversity purposes. *See* Dkt. No. 14. Ex. A. The requirements for diversity jurisdiction are therefore satisfied.

III. Conclusion

The motion to remand is DENIED.

It is SO ORDERED.

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