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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 FARAG EZUBEIK, No. 08-4546 MMC
12 Plaintiff,
13 v.
14 PRO PARK, INC.,
15 Defendant

**ORDER DIRECTING DEFENDANT TO
SHOW CAUSE WHY ACTION SHOULD
NOT BE REMANDED FOR LACK OF
SUBJECT MATTER JURISDICTION**

17 Before the Court is defendant's Notice of Removal, filed September 29, 2008, in
18 which notice defendant asserts the federal district court has diversity jurisdiction under 28
19 U.S.C. § 1332(a).¹

20 In support of its assertion that the amount in controversy exceeds \$75,000,
21 defendant states it is "informed and believes that [p]laintiff seeks in excess of \$75,000 in
22 alleged back pay, front pay, unpaid wages, and emotional distress damages in this action."
23 (See Not. of Removal ¶ 2.) Defendant thus appears to rely wholly on the allegations of
24 plaintiff's complaint. The complaint, while indicating plaintiff has lost wages and incurred
25 emotional distress as a result of defendant's alleged constructive termination of plaintiff's
26 employment, includes no allegations from which it can be concluded that plaintiff's asserted
27 damages necessarily exceed the sum of \$75,000. As a consequence, defendant has failed

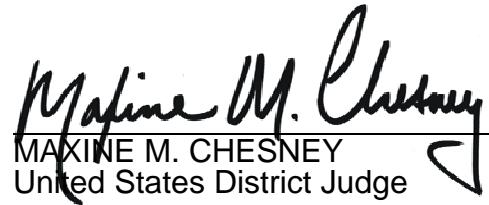
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1On October 7, 2008, the matter was reassigned to the undersigned.

1 to make the requisite showing that the amount in controversy exceeds \$75,000. See Gaus
2 v. Miles, 980 F.2d 564, 567 (9th Cir. 1992) (holding defendant in removed action "bears the
3 burden of actually proving the facts to support jurisdiction, including the jurisdictional
4 amount").

5 Accordingly, defendant is hereby ORDERED TO SHOW CAUSE, in writing and no
6 later than October 24, 2008, why the instant action should not be remanded for lack of
7 subject matter jurisdiction. If plaintiff wishes to file a reply to defendant's showing, plaintiff
8 shall file his reply no later than October 31, 2008.

9 **IT IS SO ORDERED.**

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11 Dated: October 10, 2008
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MAXINE M. CHESNEY
United States District Judge

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