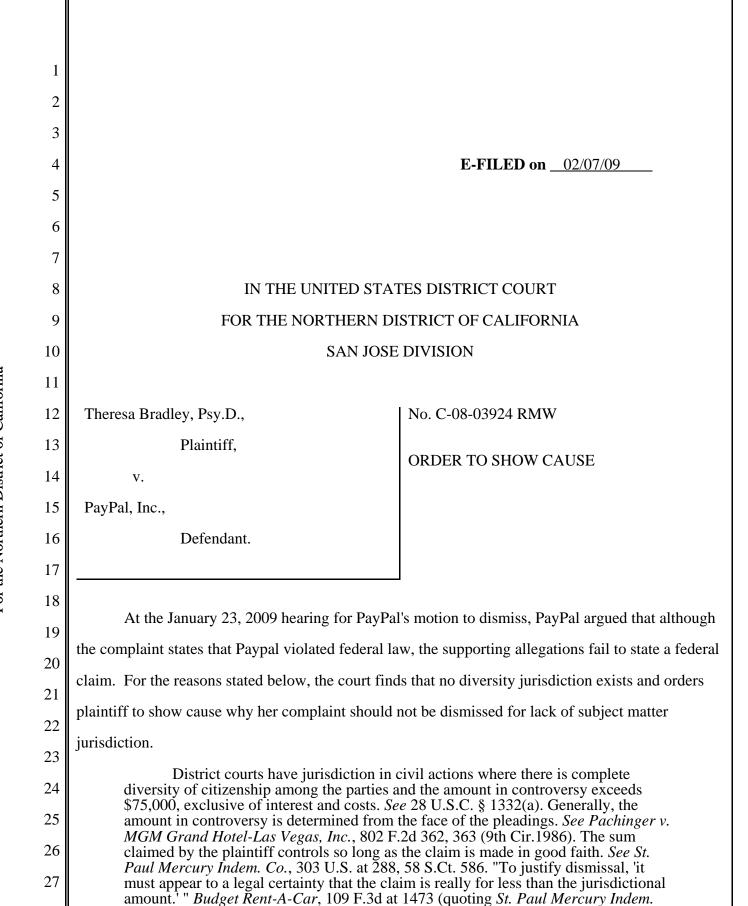
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ORDER TO SHOW CAUSE—No. C-08-03924 RMW AEA

Co., 303 U.S. at 289, 58 S.Ct. 586).

Crum v. Circus Circus, 231 F.3d 1129, 1131 (9th Cir. 2000).

A case may be dismissed when a limitation on damages makes it impossible for the plaintiff to meet the amount-in-controversy requirement. *Pachinger v. MGM, Grand Hotel-Las Vegas, Inc.*, 802 F.2d 362, 364 (9th Cir. 1986). PayPal's User Agreement provides in Subsection 14.6:

Limitations on Liability. In no event shall we, our parent, employees or our supplies be liable for lost profits or any special incidental or consequential damages arising out of or in connection with our web site, our service, or this agreement (however arising, including negligence). . . . Our liability, and the liability of our parent, employees, and suppliers, to you or any third parties in any circumstance is limited to the actual amount of direct damages.

Def.'s Reply ISO Mot. to Dismiss Ex. A, pg 23. Because plaintiff has apparently suffered just \$1500 in direct damages, her case does not meet the amount in controversy needed for diversity jurisdiction. Even if the "Limitation on Liability" provision is for some reason unenforceable, plaintiff cannot claim damages in excess of \$75,000 in good faith. Therefore, diversity jurisdiction does not exist.

Defendant's contention that the complaint fails to allege a claim for relief based upon a federal question appears to have merit. The court therefore orders plaintiff to show cause in writing why the complaint should not be dismissed for failure properly allege a claim involving a federal question. Plaintiff shall file papers making such a showing by February 27, 2009. Defendant shall file any opposition by March 6, 2009 and plaintiff may reply by March 13, 2009. The matter will then be submitted on the papers unless the court orders a hearing.

1	Notice of this document has been sent to:
2	Counsel for Plaintiff:
3	Theresa Bradley, <i>Pro Se</i> 6418 Old Post Court
4	Columbus, GA 31909
5	Counsel for Defendants:
6	Carlos Gregory Martinez cmartin@isonlaw.com
7	Counsel are responsible for distributing copies of this document to co-counsel that have not
8	registered for e-filing under the court's CM/ECF program.
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11	Dated: 02/07/09 JAS Chambers of Judge Whyte
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