

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JOSHUA GOLDMAN,

Plaintiff,

v.

U.S. TRANSPORT & LOGISTICS,
LLC,

Defendant.

Case No. 16-cv-2930-BAS(NLS)

**ORDER REMANDING ACTION
TO STATE COURT FOR LACK
OF SUBJECT MATTER
JURISDICTION**

On October 25, 2016, Plaintiff Joshua Goldman commenced this employment dispute against Defendant U.S. Transport & Logistics, LLC in the San Diego Superior Court. On December 1, 2016, Defendant removed this action to federal court pursuant to 28 U.S.C. §§ 1441(b).

For the following reasons, the Court finds Defendant’s Notice of Removal is deficient and **REMANDS** this action to the San Diego Superior Court for lack of subject matter jurisdiction.

//

1 **I. LEGAL STANDARD**

2 “Federal courts are courts of limited jurisdiction.” *Kokkonen v. Guardian Life*
3 *Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). “They possess only that power authorized
4 by Constitution or a statute, which is not to be expanded by judicial decree.” *Id.*
5 (internal citations omitted). “It is to be presumed that a cause lies outside this limited
6 jurisdiction and the burden of establishing the contrary rests upon the party asserting
7 jurisdiction.” *Id.* (internal citations omitted); *see also Abrego Abrego v. The Dow*
8 *Chem. Co.*, 443 F.3d 676, 684 (9th Cir. 2006).

9 Consistent with the limited jurisdiction of federal courts, the removal statute is
10 strictly construed against removal jurisdiction. *Gaus v. Miles, Inc.*, 980 F.2d 564, 566
11 (9th Cir. 1992); *see also Sygenta Crop Prot. v. Henson*, 537 U.S. 28, 32 (2002);
12 *O’Halloran v. Univ. of Wash.*, 856 F.2d 1375, 1380 (9th Cir. 1988). “The strong
13 presumption against removal jurisdiction means that the defendant always has the
14 burden of establishing that removal is proper.” *Gaus*, 980 F.2d at 566; *see also*
15 *Nishimoto v. Federman-Bachrach & Assoc.*, 903 F.2d 709, 712 n.3 (9th Cir. 1990);
16 *O’Halloran*, 856 F.2d at 1380. “Federal jurisdiction must be rejected if there is any
17 doubt as to the right of removal in the first instance.” *Gaus*, 980 F.2d at 566.

18 It is well-established that “a district court’s duty to establish subject matter
19 jurisdiction is not contingent upon the parties’ arguments.” *See United Investors Life*
20 *Ins. Co. v. Waddell & Reed Inc.*, 360 F.3d 960, 966 (9th Cir. 2004). Courts may
21 consider the issue *sua sponte*. *Demery v. Kupperman*, 735 F.2d 1139, 1149 n.8 (9th
22 Cir. 1984). Indeed, the Supreme Court has emphasized that “district courts have an
23 ‘independent obligation to address subject-matter jurisdiction *sua sponte*.’” *Grupo*
24 *Dataflux v. Atlas Global Grp., L.P.*, 541 U.S. 567, 593 (2004) (quoting *United States*
25 *v. S. Cal. Edison Co.*, 300 F. Supp. 2d 964, 972 (E.D. Cal. 2004)).

26 //

27 //

28 //

1 **II. ANALYSIS**

2 In order to invoke this Court’s diversity jurisdiction, the defendant must
3 demonstrate that there is complete diversity of citizenship between the parties and
4 that the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332. To determine
5 whether the amount in controversy has been met on removal, “[t]he district court may
6 consider whether it is ‘facially apparent’ from the complaint that the jurisdictional
7 amount is in controversy.” *Singer v. State Farm Mut. Auto Ins. Co.*, 116 F.3d 373,
8 377 (9th Cir. 1997). In cases in which the plaintiff’s state-court complaint does not
9 specify an exact damage figure, the defendant “must provide evidence that it is ‘more
10 likely than not’ that the amount in controversy” satisfies the federal diversity
11 jurisdictional amount requirement. *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d
12 398, 404 (9th Cir. 1996). Defendant fails to satisfy that requirement. *See* 42 U.S.C. §
13 1332.

14 Here, Plaintiff’s four-page complaint does not include any valuation of the
15 amount in controversy. The relief sought only states unspecified damages “according
16 to proof at trial” and “pursuant to Labor Code § 970.” Despite Defendant’s allegation
17 in the six-paragraph notice of removal that Plaintiff “has placed more than \$75,000
18 in controversy in his complaint,” there are no facts provided by Defendant to justify
19 that conclusion. (*See* Removal Notice ¶¶ 2, 4.) Defendant merely bases this
20 conclusion on allegations in the complaint by reciting certain facts Plaintiff has
21 already alleged.¹ (*See id.* ¶ 4.) These facts identified, such as liability for “property
22 loss,” fail to provide the Court with any guidance as to the amount in controversy.

23 Upon reviewing the complaint, the removal notice, and the LeBeouf
24 Declaration, the Court cannot conclude that the amount in controversy in this action
25 more likely than not exceeds the jurisdictional threshold of \$75,000. *See Sanchez*,

27
28 ¹ Paragraph 4 of the removal notice cites to Paragraph 6 of the six-paragraph LeBeouf Declaration. At first glance, this appears to be evidentiary support, but examining the declaration more closely, Paragraph 6 of the LeBeouf Declaration wholly relies on the complaint.


1 203 F.3d at 404.

2
3 **III. CONCLUSION & ORDER**

4 In light of the policy “constru[ing] the removal statute against removal
5 jurisdiction,” and because Defendant fails to provide facts necessary to establish
6 diversity jurisdiction as required by 28 U.S.C. § 1332(a), the Court **REMANDS** this
7 action to the San Diego Superior Court for lack of subject matter jurisdiction. *See* 28
8 U.S.C. § 1447(c) (“If at any time before final judgment it appears that the district
9 court lacks subject matter jurisdiction, the case shall be remanded.”); *Gaus*, 980 F.2d
10 at 566.

11 **IT IS SO ORDERED.**

12
13 **DATED: December 8, 2016**

14 
15 **Hon. Cynthia Bashant**
16 **United States District Judge**