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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 ADMIRAL INSURANCE COMPANY, a
12 corporation,

13 Plaintiff,

14 v.

15 ASPEN INSURANCE UK LIMITED, a
16 corporation; ASPEN SPECIALTY
17 INSURANCE, a corporation; and DOES 1
through 50, inclusive,

18 Defendants.

Case No.: 17-cv-00703-AJB-WVG

**ORDER DENYING PLAINTIFF'S
MOTION TO REMAND**

(Doc. No. 4)

19 Presently before the Court is Plaintiff Admiral Insurance Company's ("Plaintiff")
20 motion to remand. (Doc. No. 4.) Defendants Aspen Insurance UK Limited and Aspen
21 Specialty Insurance (collectively referred to as "Defendants") filed an opposition on May
22 16, 2017, (Doc. No. 7), and Plaintiff filed a reply on May 23, 2017, (Doc. No. 8). Pursuant
23 to Civil Local Rule 7.1.d.1, the Court finds the motion suitable for determination on the
24 papers and without oral argument. For the reasons set forth more fully below, the Court
25 **DENIES** Plaintiff's motion to remand.
26

27 **BACKGROUND**

28 On February 24, 2017, Plaintiff commenced this action in San Diego Superior Court,

1 alleging ten causes of action against Defendants. (Doc. No. 1-2 at 7–30.) Plaintiff seeks
2 reimbursement of defense fees and costs incurred in defending an entity that Plaintiff
3 contends is mutually insured by both Defendants. (Doc. No. 4-1 at 2.) Thus, Plaintiff’s
4 lawsuit is an equitable-contribution action that arises from an underlying construction-
5 defect action entitled *Wilshire Vermont Housing Partners, LP v. Taisei Construction*
6 *Corp., et al.* (Los Angeles County Superior Court case number BC504178). (*Id.* at 3.)

7 On April 6, 2017, Defendants removed the case to this Court. (Doc. No. 1.)
8 Subsequently, on May 1, 2017, Plaintiff filed the present motion, its motion to remand to
9 state court. (Doc. No. 4.) In opposition, Defendants stated that if the Court was to have any
10 question whether or not the jurisdictional amount in controversy was satisfied that it should
11 allow Defendants to conduct limited jurisdictional discovery. (Doc. No. 7 at 9.) On June
12 16, 2017, the Court granted Defendants’ request. (Doc. No. 9.) Thereafter, Plaintiff
13 responded to the interrogatory. (Doc. No. 10.)

14 **LEGAL STANDARD**

15 “Federal courts are courts of limited jurisdiction[,]” having subject matter
16 jurisdiction only over matters authorized by the Constitution and Congress. *See Kokkonen*
17 *v. Guardian Life Ins. Co.*, 511 U.S. 375, 377 (1994). A defendant may remove a civil action
18 to federal court if the district court would have original jurisdiction over the matter or if
19 there is diversity jurisdiction. 28 U.S.C. § 1441(a)–(b). Removal statutes are strictly
20 construed against removal. *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992). A
21 defendant seeking removal has the burden to establish that removal is proper and any doubt
22 is resolved against removability. *Luther v. Countrywide Home Loans Servicing LP*, 533
23 F.3d 1031, 1034 (9th Cir. 2008). However, a plaintiff seeking remand has the burden to
24 prove that an express exception to removal exists. *Breuer v. Jim’s Concrete of Brevard,*
25 *Inc.*, 538 U.S. 691, 698 (2003).

26 **DISCUSSION**

27 Plaintiff alleges that the instant action should be remanded because (1) Defendants’
28 removal to federal court is based on purported conversations with Plaintiff’s counsel—the

1 substance of which is disputed; and (2) Defendants’ removal notice does not establish by
2 a preponderance of the evidence that the amount in controversy exceeds \$75,000. (Doc.
3 No. 4-1 at 3–7.) Defendants retort that the evidence provided by them is sufficient to
4 demonstrate that it is “more likely than not” that Plaintiff’s intra-insurer claim against
5 Defendants exceeds the jurisdictional threshold. (Doc. No. 7 at 4.) Additionally,
6 Defendants requested that rather than have the matter remanded to state court and then
7 removed again once it could be purportedly established that the amount in controversy had
8 been satisfied, that the Court instead allow limited jurisdictional discovery. (*Id.* at 9.)

9 After reviewing the evidence proffered by both sides and the applicable law, the
10 Court found limited jurisdictional discovery appropriate, over Plaintiff’s objections, as
11 further discovery would help aid the Court in determining whether it has jurisdiction over
12 the present matter. (*See generally* Doc. No. 8 (*see Abrego Abrego v. The Dow Chem. Co.*,
13 443 F.3d 676, 691 (9th Cir. 2006) (holding that district courts may allow limited
14 jurisdictional discovery prior to remand to determine the amount in controversy in cases
15 where the amount has not been completely established); *see also Laub v. U.S. Dept. of*
16 *Interior*, 342 F.3d 1080, 1093 (9th Cir. 2003) (“Although a refusal to grant discovery to
17 establish jurisdiction is not an abuse of discretion when ‘it is clear that further discovery
18 would not demonstrate facts sufficient to constitute a basis for jurisdiction,’ discovery
19 should be granted when, as here, the jurisdictional facts are contested or more facts are
20 needed.”)). Thereafter, on July 3, 2017, Plaintiff responded to Defendants’ request and
21 stated that without waiving their general objections that the total defense costs paid as of
22 April 6, 2017, is \$1,905,225.26. (Doc. No. 10 at 5.)

23 Based upon the foregoing, the Court finds that diversity jurisdiction has been
24 satisfied.¹ *See Matheson v. Progressive Specialty Ins. Co.*, 319 F.3d 1089, 1090 (9th Cir.
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27 ¹ The Court notes that neither party disputes that the parties are diverse as Plaintiff is a
28 Delaware corporation with its principal place of business in New Jersey, and Defendant
Aspen UK is a foreign corporation with its principal place of business in London, England,

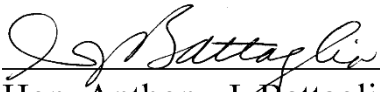
1 2003) (“Jurisdiction founded on [diversity] requires that the parties be in complete diversity
2 and the amount in controversy exceed \$75,000.”). Accordingly, as it has been established
3 that it is more likely than not that the amount in controversy in the present matter exceeds
4 the \$75,000 threshold, Plaintiff’s motion to remand is **DENIED**.

5 **CONCLUSION**

6 For the reasons set forth more fully above, Plaintiff’s motion to remand is hereby
7 **DENIED**.

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9 **IT IS SO ORDERED.**

10 Dated: July 24, 2017

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12 Hon. Anthony J. Battaglia
13 United States District Judge
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27 _____
28 and Defendant Aspen Specialty, is a North Dakota corporation with its principal place of
business in Connecticut. (Doc. No. 1 ¶¶ 6–8.)