

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
GAINESVILLE DIVISION

JOHN J HOAG,

Plaintiff,

v.

CASE NO. 1:08-cv-00172-MP-AK

ACE AMERICAN INSURANCE COMPANY,

Defendant.

---

**ORDER**

This matter is before the Court on Doc. 8, Motion to Remand to State Court and for Attorney's Fees and Cost by John J Hoag. The Defendant has responded, Doc. 9. For the reasons given below, the motion to remand is denied.

In the Complaint, the Plaintiff alleges the existence of an Occupational Accident Plan issued by the defendant which provided Full Occupational Coverage to, among others, Plaintiff. Plaintiff also alleges total disability due to an accident (Complaint ¶ 9), past and future medical expenses (Complaint ¶ 10), and entitlement to attorney's fees under §627.48. Attorney's fees under Fla. Stat. § 627.48 must be included when computing the amount in controversy in a diversity jurisdiction case under 28 U.S.C. § 1332. See Cohen v. Office Depot, Inc., 204 F.3d 1069, 1079 (11th Cir. 2000)(approving the contention that "when a statutory cause of action entitles a party to recover reasonable attorney fees, the amount in controversy includes consideration of the amount of those fees"). The Court agrees with the Defendant that even though the total disability benefits may be topped out at \$52,000, the potential medical expenses and attorney's fees make it more likely than not that the amount in controversy will exceed

\$75,000. Accordingly, diversity jurisdiction is proper under 28 U.S.C. § 1332, and it is hereby

**ORDERED AND ADJUDGED:**

The motion to remand, doc. 8, is denied. The Clerk is directed to set this matter for a telephone status conference to determine appropriate deadlines.

**DONE AND ORDERED** this 25th day of November, 2008

*s/Maurice M. Paul*

---

Maurice M. Paul, Senior District Judge