

1 Exhibit 2. American removed the action to federal court on the basis of diversity jurisdiction.
2 Doc. #1. Thereafter, Geannaris filed the present motion to remand arguing that the amount in
3 controversy has not been met. Doc. #5.

4 **II. Legal Standard**

5 Under 28 U.S.C. § 1441, “any civil action brought in a State court of which the district
6 courts of the United States have original jurisdiction, may be removed by the defendant or the
7 defendants, to the district court of the United States for the district and division embracing the
8 place where such action is pending.” 28 U.S.C. § 1441(a). A district court has original jurisdiction
9 over civil actions where the suit is between citizens of different states and the amount in
10 controversy, exclusive of interest and costs, exceeds \$75,000.00. 28 U.S.C. § 1332(a). In a diversity
11 case, if a complaint does not specify the amount of damages, “the removing defendant bears the
12 burden of establishing, by a preponderance of the evidence, that the amount in controversy exceeds
13 \$[75],000.00.” *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398, 404 (9th Cir. 1996).

14 Removal of a case to a district court may be challenged by motion. 28 U.S.C. § 1441(c). A
15 federal court must remand a matter if there is a lack of jurisdiction. *Id.* Removal statutes are
16 construed restrictively and in favor of remanding a case to state court. *See Shamrock Oil & Gas*
17 *Corp. v. Sheets*, 313 U.S. 100, 108-09 (1941); *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir.
18 1992).

19 **III. Discussion**

20 Geannaris concedes that the parties are diverse for diversity jurisdiction, but argues that
21 American’s notice of removal is insufficient to prove, by a preponderance of the evidence, that the
22 amount in controversy exceeds \$75,000.00. Geannaris’s complaint only requests damages in excess
23 of \$10,000.00 as required under the Nevada Rules of Civil Procedure. Further, Geannaris alleges
24 that she only had a policy with American for coverage of medical expenses in the amount of
25 \$25,000. Therefore, the court finds that the amount in controversy has not been met and the
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1 exercise of diversity jurisdiction is improper.

2 Additionally, the failure of a party to file points and authorities in response to any motion
3 shall constitute a consent to the granting of that motion. LR 7-2(d). Here, American did not file an
4 opposition to Geannaris's motion to remand. Accordingly, the court shall grant Geannaris's motion
5 to remand.

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7 IT IS THEREFORE ORDERED that plaintiff's motion to remand (Doc. #5) is GRANTED.
8 The present action, 2:10-cv-0877-LRH-LRL, is REMANDED to the Eight Judicial District Court
9 for the District of Nevada.

10 IT IS SO ORDERED.

11 DATED this 20th day of July, 2010.



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LARRY R. HICKS
UNITED STATES DISTRICT JUDGE