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6	UNITED STATES DISTRICT COURT
7	DISTRICT OF NEVADA
8	* * *
9	CAROLYN WEBSTER an individual ) formerly d/b/a/ AZ-U-WISH CRCC, LLC, a )
10	Domestic Limited Liability Company, ) 2:11-cv-00784-LRH-RJJ
11	Plaintiff,
12	V. )
13	BEAZER HOMES HOLDINGS CORP., ) DOES I - X, inclusive, and ROE )
14	CORPORATIONS X-XX, inclusive,
15	Defendants.
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17	Before the court is defendant Beazer Homes Holdings Corp.'s brief demonstrating that the
18	amount in controversy exceeds \$75,000, as required by 28 U.S.C. § 1332(a). <sup>1</sup> Doc. #15. <sup>2</sup>
19	On June 9, 2011, the court entered an order finding that the defendant had failed to establish
20	that removal on the basis of diversity jurisdiction was proper in their petition for removal (Doc. #1)
21	and granted the defendant the opportunity to establish that the amount in controversy between the
22	parties exceeds \$75,000, as required by 28 U.S.C. § 1332(a). Doc. #9.
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24	<sup>1</sup> 28 U.S.C. § 1332(a) provides that the district courts of the United States shall have original
25	jurisdiction over all civil actions between citizens of different states where the amount in controversy, exclusive of interest and costs, exceeds \$75,000.
26	<sup>2</sup> Refers to the court's docket

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Where, as here, it is not facially evident from the face of the complaint that the amount in 1 2 controversy exceeds \$75,000, "the removing defendant bears the burden of establishing, by a preponderance of the evidence, that the amount in controversy exceeds \$[75],000." Sanchez v. 3 4 Monumental Life Ins. Co., 102 F.3d 398, 404 (9th Cir. 1996). Here, defendant Beazer Homes contends that the amount in controversy requirement is met because, prior to instituting this action 5 for breach of contract, plaintiff Carolyn Webster sent two demand letters to Beazer Homes for 6 7 \$151,378.00 and \$148,863.30 in damages arising out of the same alleged breach of contract. 8 See Doc. #15, Exhibits B & C. The second demand is repetitive, not cumulative, of the first, and 9 any demanded interest and litigation costs must be excluded from the assessment of the amount in 10 controversy. See 28 U.S.C. § 1332(a) ("exclusive of interest and costs"). Nonetheless, the later 11 demand alone, which includes \$82,103.20 for unpaid invoices, \$13,793.30 for stopped check fees, and \$20,000.00 for consequential damages, still exceeds the \$75,000 minimum. A plaintiff's 12 13 statement of damages is relevant evidence of the amount in controversy if it appears to reflect a 14 reasonable estimate of the plaintiff's claim and the plaintiff has not attempted to disavow it or offer 15 contrary evidence. Cohn v. Petsmart, Inc., 281 F.3d 837, 840 (9th Cir. 2002). Therefore, the court 16 finds that defendant has proffered sufficient evidence establishing an amount in controversy greater than \$75,000. Accordingly, the court shall accept defendant's removal of this action and exercise 17 18 diversity jurisdiction over the complaint. 19 IT IS THEREFORE ORDERED that defendants' brief concerning removal (Doc. #15) is 20 GRANTED. 21 IT IS SO ORDERED. Elsih 22 DATED this 14th day of July, 2011. 23 24 LARRY R. HICKS UNITED STATES DISTRICT JUDGE 25

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