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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

THOMAS DUBE, as Parent and Legal Guardian of  
JORDAN DUBE, a minor,

Plaintiffs,

v.

JENNIFER HOGAN; JACOB HOGAN; WESTERN  
UNITED INSURANCE COMPANY dba AAA  
NEVADA INSURANCE COMPANY; and DOES  
1-10; and ROE ENTITIES 11 through 20, inclusive,

Defendants.

Case No.: 2:14-cv-00495-JAD-VCF

**ORDER DENYING MOTION TO  
REMAND [Doc. 6]**

Plaintiff Thomas Dube sues defendants for injuries his son Jordan allegedly sustained in a motor vehicle accident.<sup>1</sup> Defendant Western United Insurance Company dba AAA Nevada Insurance Company removed this case from Nevada State Court based on diversity jurisdiction.<sup>2</sup> Plaintiff now asks this Court to remand this case back to state court arguing that the case value does not meet the \$75,000 jurisdictional threshold for federal jurisdiction. As defendant has demonstrated that plaintiff values his damages at \$100,000, the motion to remand is denied.

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<sup>1</sup> Doc. 3 at 4.

<sup>2</sup> Doc. 1 at 2. Plaintiff is a resident of Nevada. Defendant Jennifer Hogan is a resident of Arizona and Defendant Jacob Hogan is a resident of Mississippi. Defendant Western United Insurance Company dba AAA Nevada Insurance Company is incorporated in Indiana with its principal place of business in Indiana.

1 **Discussion**

2 **A. Motion to Remand**

3 “Federal courts are courts of limited jurisdiction.”<sup>3</sup> There is a strong presumption against  
4 removal jurisdiction and “federal jurisdiction must be rejected if there is any doubt as to the right of  
5 removal in the first instance.”<sup>4</sup> Therefore the defendant always has the burden of establishing that  
6 removal is proper.<sup>5</sup> This burden is usually satisfied if the plaintiff claims a sum more than the  
7 threshold requirement.<sup>6</sup> If the amount of plaintiff’s claim is unclear, the defendant must prove that it  
8 is more likely than not that the jurisdictional amount has been met.<sup>7</sup> Defendants may rely upon facts  
9 presented in the removal petition and any summary-judgment-type evidence that is related to the  
10 amount-in-controversy.<sup>8</sup> Conclusory allegations do not overcome the presumption against removal  
11 jurisdiction or satisfy the defendant’s burden of proving the case.<sup>9</sup> The defendant does not need to  
12 predict the trier of fact’s eventual award with certainty.<sup>10</sup>

13 The federal procedure for removal of civil actions requires a defendant to include in its  
14 removal petition a “short and plain statement of the grounds for removal.”<sup>11</sup> Western United  
15 represents in its statement of removal that Plaintiff “demanded” the tender of “the full value of the  
16 UM policy, \$100,000.00,”<sup>12</sup> and it attaches to its opposition to the motion for remand plaintiff’s

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18 <sup>3</sup> *Kokkonen v. Guardian Life Ins. Co. of America*, 511 U.S. 375, 377 (1994).

19 <sup>4</sup> *Gaus v. Miles*, 980 F.2d 564, 566 (9th Cir. 1992).

20 <sup>5</sup> *Id.*

21 <sup>6</sup> *Id.* (citing *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 288–99 (1938)).

22 <sup>7</sup> *Id.*; *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 395, 404 (9th Cir. 1996).

23 <sup>8</sup> *Matheson v. Progressive Specialty Ins. Co.*, 319 F.3d 1089, 1090 (9th Cir. 2003).

24 <sup>9</sup> *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1117 (9th Cir. 2004) (citations omitted).

25 <sup>10</sup> *Id.*

26 <sup>11</sup> 28 U.S.C. § 1446.

27 <sup>12</sup> Doc. 11 at 3.

1 counsel's letter demanding the full \$100,000 policy limits.<sup>13</sup> The Ninth Circuit has recognized that  
2 settlement letters may provide a reasonable estimate of a plaintiff's claim for removal jurisdiction  
3 purposes.<sup>14</sup> Plaintiff's counsel's concession that "counsel does not intend to seek an award more  
4 than \$75,000"<sup>15</sup> is of no consequence. As the United States Supreme Court long ago acknowledged  
5 in *St. Paul Mercury Indemnity Co. v. Red Cab Co.*, "a plaintiff may not defeat removal by  
6 subsequently changing his damage request, because post-removal events cannot deprive a court of  
7 jurisdiction once it has attached."<sup>16</sup> At the time the case was removed, plaintiff was taking the  
8 position that this case is worth \$100,000, which satisfies the jurisdictional threshold and vests this  
9 Court with jurisdiction.

10 **B. Request for Rule 11 Sanctions**

11 Defendant's request for an award of fees and costs for having to respond to a motion it  
12 considers "frivolous" because the plaintiff values the case at \$100,000<sup>17</sup> is denied. Defendants have  
13 not even attempted to demonstrate that they satisfied the procedures for obtaining Rule 11  
14 sanctions.<sup>18</sup>

15 **Conclusion**

16 Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion to Remand [#6] and  
17 Defendant's request for Rule 11 Sanctions are both DENIED.

18 DATED: July 22, 2014

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20 \_\_\_\_\_  
JENNIFER A. DORSEY  
UNITED STATES DISTRICT JUDGE

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23 <sup>13</sup> Doc. 12-1. Plaintiff's counsel does not dispute the authenticity of this document.

24 <sup>14</sup> *See Cohn v. Petsmart, Inc.*, 281 F.3d 837, 840 (9th Cir. 2002).

25 <sup>15</sup> Doc. 14 at 3.

26 <sup>16</sup> *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 292 (1938).

27 <sup>17</sup> *See* Doc. 12 at 6.

28 <sup>18</sup> *See* Fed. R. Civ. Proc. 11(c)(2).