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

Ji Pagsisihan,  
Plaintiff  
v.  
Allstate Indemnity Company,  
Defendant

2:16-cv-00072-JAD-VCF

**Order Granting Motion to Remand,  
Denying Motion to Dismiss as Moot,  
Remanding Case Back to Nevada State  
Court, and Vacating Hearing**

[ECF 4, 9]

10 Ji Pagsisihan sues her insurer Allstate Indemnity Company for a handful of state-law claims,  
11 alleging that Allstate failed to adequately investigate her claim for medical and underinsured  
12 motorist coverage after a January 2014 car accident.<sup>1</sup> Allstate removed the case from state court  
13 based on diversity of citizenship.<sup>2</sup> Pagsisihan moves to remand, arguing that the Allstate has not  
14 demonstrated that the amount-in-controversy requirement has been met.<sup>3</sup> Because Allstate has not  
15 shown by a preponderance of the evidence that the amount in controversy exceeds \$75,000, I grant  
16 Pagsisihan's motion and remand this case back to Nevada's Eighth Judicial District Court, case no.  
17 A-15-728656-C.<sup>4</sup> I also deny Allstate's motion to dismiss<sup>5</sup> as moot and vacate the hearing.

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**Background**

In January 2014, Pagsisihan sustained permanent bodily injuries in a car accident,<sup>6</sup> and

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<sup>1</sup> ECF 1-1.

<sup>2</sup> ECF 1.

<sup>3</sup> ECF 9.

<sup>4</sup> I find this motion appropriate for resolution without oral argument. L.R. 78-2.

<sup>5</sup> ECF 4.

<sup>6</sup> ECF 1-1 at ¶ 6.

1 demanded that Allstate pay her underinsured-policy limits of \$50,000.<sup>7</sup> But despite her \$40,500.03  
2 in medical expenses, Pagsisihan alleges that Allstate responded with a settlement offer of just  
3 \$6,000.<sup>8</sup> Pagsisihan asserts four claims: (1) breach of contract, (2) breach of the implied covenant of  
4 good faith and fair dealing, (3) Nevada Trade Practicess Act violations, and (4) intentional infliction  
5 of emotional distress.<sup>9</sup> In her prayer for relief, Pagsisihan claims general damages in excess of  
6 \$10,000; special damages in excess of \$10,000; and punitive damages in excess of \$10,000.<sup>10</sup>

7 In its petition for removal, Allstate invokes this court’s diversity jurisdiction. Allstate argues  
8 that the amount in controversy exceeds \$75,000 because Pagsisihan claims \$40,500 in medical  
9 damages and has “demanded full policy limits of \$50,000, general damages, special damages,  
10 attorney costs and fees, damage for emotional distress, and punitive damages.”<sup>11</sup> Pagsisihan moves  
11 to remand, arguing that the only amount in controversy Allstate can show is \$60,00.01: \$50,000 in  
12 contractual damages (Pagsisihan’s policy limits) and \$10,000.01 for the bad faith/unfair-claims-  
13 handling claims.<sup>12</sup>

## 14 Discussion

### 15 A. Motion to Remand

16 When a case is filed in state court between parties who are citizens of different states, and the  
17 case value exceeds \$75,000, the defendant may remove the case to federal court.<sup>13</sup> “Federal courts  
18 are courts of limited jurisdiction,”<sup>14</sup> and there is a strong presumption against removal jurisdiction.

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20 <sup>7</sup> *Id.* at ¶¶ 9–10.

21 <sup>8</sup> *Id.* at ¶ 13.

22 <sup>9</sup> *Id.* at 5–7.

23 <sup>10</sup> *Id.* at 8.

24 <sup>11</sup> ECF 1 at 2.

25 <sup>12</sup> ECF 9 at 2.

26 <sup>13</sup> 28 U.S.C. §§ 1332, 1441, 1446.

27 <sup>14</sup> *Kokkonen v. Guardian Life Ins. Co. of America*, 511 U.S. 375, 377 (1994).

1 “[F]ederal jurisdiction must be rejected if there is any doubt as to the right of removal in the first  
2 instance.”<sup>15</sup> The defendant always has the burden of establishing that removal is proper.<sup>16</sup> This  
3 burden is usually satisfied if the plaintiff claims a sum greater than the threshold requirement.<sup>17</sup> If  
4 the value of plaintiff’s claim is unclear, the defendant must prove by a preponderance of the evidence  
5 that the jurisdictional amount has been met.<sup>18</sup> Defendants may rely on facts presented in the removal  
6 petition and any summary-judgment-type evidence that is related to the amount in controversy.<sup>19</sup>

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8 **B. Remand is required because Allstate has not shown that the amount in controversy  
exceeds \$75,000.**

9 The face of the complaint does not show that Pagsisihan claims damages in excess of  
10 \$75,000. Pagsisihan claims damages in excess of \$30,000 for general, special, and punitive  
11 damages. Because Pagsisihan does not explicitly claim damages in excess of \$75,000, Allstate must  
12 prove by a preponderance of the evidence that the jurisdictional amount has been met.<sup>20</sup>

13 Pagsisihan alleges in her complaint—and Allstate offers no evidence to dispute—that she has  
14 incurred \$40,500.03 in medical expenses and that her policy limit is \$50,000. Thus, Allstate has  
15 shown, at most, only \$70,000 in damages: \$50,000 in special damages (assuming that Pagsisihan is  
16 entitled to the full policy amount), and in excess of \$20,000 for general and punitive damages.  
17 Allstate offers no evidence to show that Pagsisihan’s general and punitive damages exceed  
18 \$20,000.01, so I am left with the amounts alleged in the complaint. Because Allstate has not offered  
19 evidence showing that the amount in controversy more likely than not exceeds \$75,000, I grant  
20 Pagsisihan’s motion to remand.

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22 <sup>15</sup> *Gaus v. Miles*, 980 F.2d 564, 566 (9th Cir. 1992).

23 <sup>16</sup> *Id.*

24 <sup>17</sup> *Id.* (citing *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 288–99 (1938)).

25 <sup>18</sup> *Id.*; see also *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 395, 404 (9th Cir. 1996).

26 <sup>19</sup> *Matheson v. Progressive Specialty Ins. Co.*, 319 F.3d 1089, 1090 (9th Cir. 2003).

27 <sup>20</sup> *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1117 (9th Cir. 2004) (internal citations omitted); see  
28 also *Sanchez*, 102 F.3d at 404.

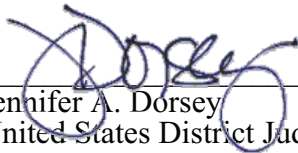
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**Conclusion**

Accordingly, IT IS HEREBY ORDERED that plaintiff's **Motion to Remand [ECF 9]** is **GRANTED**. This case is hereby remanded to the Eighth Judicial District Court, Clark County, Nevada, Case number A-15-728656-C.

IT IS FURTHER ORDERED that defendant's **Motion to Dismiss [ECF 4]** is **DENIED** as moot; the hearing set for **March 7, 2016**, is **VACATED**.

Dated this 4th day of March, 2016.

  
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Jennifer A. Dorsey  
United States District Judge