

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ANN DAVIS,

Plaintiff,

v.

AMERICAN COMMERCE INSURANCE
COMPANY (ACIC),

Defendant.

No. 4:CV-14-5034-EFS

**ORDER DENYING PLAINTIFF'S MOTION
TO REMAND TO STATE COURT**

Before the Court, without oral argument, is Plaintiff Ann Davis' Motion to Remand to State Court, ECF No. 3. Plaintiff seeks to remand this matter back to Benton County Superior Court claiming diversity jurisdiction is not met due to a lack of a sufficient amount in controversy. Having reviewed the pleadings and the file in this matter the Court is fully informed and, for the following reasons, finds the Court does have diversity jurisdiction.

In relevant part, the federal removal statute provides:

(a) Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.

28 U.S.C. § 1441(a). "The defendant bears the burden of establishing that removal is proper." *Provincial Gov't of Marinduque v. Placer*

1 *Dome, Inc.*, 582 F.3d 1083, 1087 (9th Cir. 2009). "The removal statute
2 is strictly construed against removal jurisdiction," *id.*, and removal
3 jurisdiction "must be rejected if there is any doubt as to the right
4 of removal in the first instance," *Geographic Expeditions, Inc. v.*
5 *Estate of Lhotka*, 599 F.3d 1102, 1107 (9th Cir. 2010) (citation and
6 quotation marks omitted).

7 A federal district court generally has original jurisdiction
8 over a civil action when: (1) a federal question is presented in an
9 action "arising under the Constitution, laws, or treaties of the
10 United States" or (2) there is complete diversity of citizenship and
11 the amount in controversy exceeds \$75,000. See 28 U.S.C. §§ 1331,
12 1332(a).

13 Here, Plaintiff maintains that diversity jurisdiction does not
14 exist as the amount in controversy is only \$51,000. ECF No. 3.
15 However, a close reading of Plaintiff's Complaint demonstrates
16 otherwise. First, Plaintiff seeks contractual damages. ECF No. 1-1
17 at 3. As detailed in Plaintiff's motion, ECF No. 3 at 2-3, this
18 amounts to \$16,548.73 in damages. Under Washington's Insurance Fair
19 Conduct Act, these actual contractual damages, if proven, can be
20 trebled to \$49,646.19 in damages upon a finding the insurer acted
21 unreasonably in denying the claim. See RCW 48.30.015(2).
22 Additionally, Plaintiff asserts that Defendant failed "to properly and
23 timely administer and process Plaintiff's casualty loss claim" in
24 violation of both WAC 284-30-370 and WAC 284-30-380. ECF No. 1-1 at
25 3. Under the Washington Consumer Protection Act, each violation
26 provides for up to \$25,000 of trebled actual damages. RCW 19.86.020;

1 RCW 19.86.090. Accordingly, the Court finds that at least \$99,646.19
2 is currently recoverable under Washington law as pled in Plaintiff's
3 complaint. Therefore, as the amount in controversy exceeds \$75,000,
4 Plaintiff's motion is denied.

5 Accordingly, **IT IS HEREBY ORDERED:** Plaintiff's Motion to Remand
6 to State Court, **ECF No. 3**, is **DENIED**.

7 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this
8 Order and provide copies to all counsel.

9 **DATED** this 15th day of May 2014.

10 s/ Edward F. Shea

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EDWARD F. SHEA

12 Senior United States District Judge
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