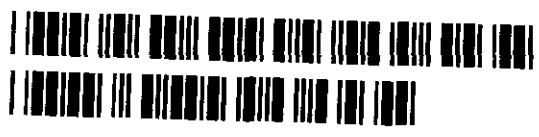


FILED _____ LODGED _____
 RECEIVED _____
 MAY 10 2010
 CLERK U.S. DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON AT TACOMA
 BY _____ DEPUTY



10-CV-05194-ORD

**UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON AT TACOMA**

HAROLD JOHNSON,
 Plaintiff,
 vs.
 TTI FLOOR CARE NORTH AMERICA
 d/b/a ROYAL APPLIANCE MFG.
 COMPANY, Ohio companies transacting
 business in Washington,
 Defendant.

NO. 3:10-cv-05194RBL
**ORDER GRANTING PLAINTIFF'S
 MOTION FOR REMAND**

THIS MATTER is before the Court upon Plaintiff's Motion to Remand[Dkt. #9], based on Plaintiff's claim that the amount in controversy is less than the jurisdictional minimum \$75,000.00. Under *Gaus v. Miles*, 980 F.2d 564, 567 (9th Cir.1992) and numerous other authorities, the party asserting federal jurisdiction has the burden of proof on a motion to remand to state court. See also, for example, *Conrad Associates v. Hartford Accident &*

**ORDER GRANTING PLNTF'S
 MOTION FOR REMAND - 1**

1 *Indemnity Co.*, 994 F. Supp. 1196 (N.D. Cal. 1998). The removal statute is strictly
2 construed against removal jurisdiction. The strong presumption against removal
3 jurisdiction means that the defendant has the burden of establishing removal is proper.
4 *Conrad*, 994 F. Supp. At 1198. It is obligated to do so by a preponderance of the
5 evidence. *Id.* at 1199; *see also Gaus v. Miles*. Federal jurisdiction must be rejected if
6 there is any doubt as to the right of removal in the first instance. *Id.* At 566.

8 The Defendant's reliance on Plaintiff's initial settlement demand is insufficient to meet
9 this burden, where the Complaint and subsequent statements undermine the claim that the
10 amount in controversy is sufficient.

11 It is therefore **ORDERED** that, pursuant to 28 USC 1447, the Motion [Dkt. #9] is
12 GRANTED this matter is hereby REMANDED to the Pierce County Superior Court. The
13 Court will not award fees on this remand. The Clerk is directed to send uncertified copies
14 of this Order to all counsel of record. The Clerk is further directed to send certified copies
15 of this order to the Clerk of the Court for Pierce County Superior Court.
16

17
18 DATED this 10th day of May, 2010.

19
20 
21 _____
22 THE HONORABLE RONALD B. LEIGHTON
23 UNITED STATES DISTRICT JUDGE
24
25
26