

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ERIC WEDGEWOOD,)	
)	
Plaintiff,)	
)	
v.)	19 C 3470
)	
THE DAILY BEAST CO., LLC,)	Judge John Z. Lee
)	
Defendant.)	

ORDER

Plaintiff Eric Wedgewood sued Defendant The Daily Beast Co., LLC (“TDB”) in Illinois circuit court, alleging that TDB published a defamatory article about him on its website. TDB removed the action to federal court, asserting diversity jurisdiction pursuant to 28 U.S.C. § 1332. Wedgewood has now moved to remand the action back to the Illinois courts. For the reasons stated herein, Wedgewood’s motion [17] is denied.

Background

TDB is a media company headquartered in New York; its members are citizens of Delaware and New York. Notice of Removal, Ex. 1, Compl. ¶ 9, ECF No. 1-1; *id.*, Ex. 3, Rosenhouse Decl. ¶¶ 4–7, ECF No. 1-3. Wedgewood is a citizen of Illinois. Compl. ¶ 8.

TDB posted an article on its website on April 24, 2018, entitled “‘He Started Messaging Me When I Was 16’: Female Members Slam ‘Content Zone’s’ Creator.” *Id.* ¶ 20. In the article, Wedgewood alleges, journalist Taylor Lorenz “makes a variety of unsupported and defaming allegations” about him. *Id.* In particular, the article cites anonymous sources who claim to have been “hit on” by Wedgewood while they were underage. *Id.* ¶¶ 12–19; *see also id.*, Ex. 2. Wedgewood claims that Lorenz did nothing to confirm the veracity of these anonymous accounts and did not interview him for his side of the story. *Id.* ¶¶ 12–19. In fact, Wedgewood alleges, the article cites an anonymous Instagram account that had been created to harass him and that Instagram disabled for violating the site’s terms of service on April 22, 2019. *Id.* ¶¶ 1–4. Still, despite what Wedgewood characterizes as the obvious falsity of TDB’s article, it has been “widely disseminated and is currently indexed on the first page of several search engine results.” *Id.* ¶ 28.

Wedgewood contends that, as a result of the article, he has “experienced a greatly decreased ability to engage in normal professional and personal relationships.” *Id.* ¶ 25. In particular, he states that he has suffered damages in the form of “loss of income, loss of good name, loss of reputation, loss of business, loss of personal association, as well as undeserved embarrassment, shame, humiliation, and emotional distress.” *Id.* ¶¶ 34, 40, 45, 50, 57.

Wedgewood enumerates claims under Illinois law for defamation (Count I), false light (Count II), intentional infliction of emotional distress (Count III), declaratory judgment (Count IV), and preliminary and permanent injunctive relief (Count V). *See id.* ¶¶ 29–57. For each claim, he seeks to receive “all such compensatory relief that he is entitled to recover,” as well as punitive damages in the amount of \$50,000. *See id.* ¶¶ 34, 40, 45, 50, 57. Additionally, Wedgewood seeks attorney’s fees, court costs, “injunctive relief in the form of a take-down notice” for the article, and “a seal of this present matter.” *Id.* ¶¶ 6–7.

Legal Standard

Federal courts are courts of limited jurisdiction. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). “They possess only that power authorized by Constitution and statute.” *Id.* One basis for federal jurisdiction is diversity jurisdiction, which gives federal courts authority to adjudicate civil actions “where the matter in controversy exceeds the sum or value of \$75,000 . . . and is between citizens of different States.” 28 U.S.C. § 1332(a)(1). For a civil action to fall within the federal courts’ diversity jurisdiction, there must be complete diversity, meaning that no plaintiff in the action is a citizen of the same state as any defendant. *Krueger v. Cartwright*, 996 F.2d 928, 931 (7th Cir. 1993) (citing *Strawbridge v. Curtiss*, 7 U.S. (3 Cranch) 267 (1806)).

When a plaintiff files a civil action in state court, the defendant may remove the action to federal court as long as the federal court would have had jurisdiction to hear the case at the time it was filed. 28 U.S.C. § 1441(a); *Schur v. L.A. Weight Loss Ctrs., Inc.*, 577 F.3d 752, 758 (7th Cir. 2009). A defendant seeking to remove a case to federal court bears the burden of establishing federal jurisdiction. *Tri-State Water Treatment, Inc. v. Bauer*, 845 F.3d 350, 352 (7th Cir. 2017); *Schur*, 577 F.3d at 758 (citing *Doe v. Allied-Signal, Inc.*, 985 F.2d 908, 911 (7th Cir. 1993)). If a federal court lacks jurisdiction over a case removed from state court, the case must be remanded. 28 U.S.C. § 1447(c); *Walton v. Bayer Corp.*, 643 F.3d 994, 998 (7th Cir. 2011). Courts “interpret the removal statute narrowly and presume that the plaintiff may choose his or her forum.” *Doe*, 985 F.2d at 911. Accordingly, “any doubts about the propriety of removing a particular action should be resolved against allowing removal.” *Wirtz Corp. v. United Distillers & Vintners N. Am., Inc.*, 224 F.3d 708, 715 (7th Cir. 2000); *accord Schur*, 577 F.3d at 758.

Analysis

Wedgewood seeks to remand this action to state court, arguing that the parties are not of diverse citizenship and that the amount in controversy does not exceed \$75,000. TDB contests both of these grounds for remand, arguing that Wedgewood does not properly support either allegation.

I. Diversity of Citizenship

Wedgewood first contends that the parties are not diverse, on the basis that TDB “is an online publisher interacting with readers across the country, worldwide and specifically in Cook County, Illinois.” Pl.’s Mot. Remand ¶ 10, ECF No. 17. TDB responds that its activities in Illinois are irrelevant, since it is a citizen of New York and Delaware for diversity purposes. *See Rosenhouse Decl.* ¶¶ 4–7.

A corporation is a citizen of both the place it is incorporated and the place where it has its principal place of business. *Hertz Corp. v. Friend*, 559 U.S. 77, 88 (2010). Additionally, the citizenship of a limited liability company (“LLC”) is determined by reference to the citizenship of each of its members. *Thomas v. Guardsmark, LLC*, 487 F.3d 531, 534 (7th Cir. 2007). Here, TDB has submitted the affidavit of a corporate officer explaining that (1) TDB’s principal place of business is in New York; (2) TDB’s members are TDB Holdings, Inc. (“TDB Holdings”) and IAC Group, LLC (“IAC”); (3) TDB Holdings is a Delaware corporation with its principal place of business in New York; and (4) IAC’s sole member is IAC/InterActiveCorp., which is a Delaware corporation with its principal place of business in New York. Rosenhouse Decl. ¶¶ 4–7. Wedgewood does not contest the veracity of this affidavit or otherwise challenge TDB’s citizenship in New York and Delaware. While TDB’s contacts with Illinois might be relevant to a personal jurisdiction analysis, *see Daimler AG v. Bauman*, 571 U.S. 117, 126 (2014), they have no bearing on TDB’s citizenship for subject-matter jurisdiction purposes. Accordingly, the Court concludes that the parties are of diverse citizenship.

II. Amount in Controversy

Next, Wedgewood argues that the amount in controversy does not exceed \$75,000. In support of this assertion, he submits an affidavit in which he declares: “In order to remain in state court, which would be a more efficient venue to resolve this present matter, I hereby affirm that damages will not exceed seventy-five thousand dollars (\$75,000). . . . It is my understanding that with my clarification of damages, this present matter does not qualify for diversity jurisdiction, and it should be removed back to state court.” Pl.’s Mot. Remand, Ex. 1, Wedgewood Aff. ¶¶ 3–4, ECF No. 17-1. TDB responds that Wedgewood’s affidavit does not control the amount in controversy.

The Court agrees that Wedgewood cannot, through an affidavit filed after removal, limit the amount in controversy to a sum below the jurisdictional threshold. As TDB recognizes, “[a] plaintiff in Illinois can limit the relief to an amount less than the jurisdictional minimum, and thus prevent removal, by filing a binding stipulation or affidavit with the complaint.” *Back Doctors Ltd. v. Metro. Property & Cas. Ins. Co.*, 637 F.3d 827, 831 (7th Cir. 2011).¹ But, at the same time, “events after the date of removal do not affect jurisdiction, and this means in particular that a declaration by the plaintiff following removal does not permit remand.” *Id.* at 830; *see also Miller v. Sw. Airlines Co.*, 926 F.3d 898, 905 (7th Cir. 2019) (“[P]ost-removal amendments to a complaint or other papers do not eliminate jurisdiction proper at the time of removal.”); *Hunt v. DaVita, Inc.*, 680 F.3d 775, 778–79 (7th Cir. 2012) (“Hunt’s post-removal disclaimer of damages exceeding \$75,000 could not defeat federal jurisdiction after a proper removal based on the complaint.”).

Wedgewood points out that Congress amended the federal removal statute in 1998 to provide that a case may be remanded if “at any time . . . it appears that the district court lacks subject matter jurisdiction.” 28 U.S.C. § 1447(c). He is correct, but the amendment does not control here. In decisions issued well after 1998, the Seventh Circuit has held that “[t]he amount in controversy is evaluated as of the time of removal,” and once the jurisdictional amount has been

¹ Along with his complaint, Wedgewood filed an affidavit confirming that his damages will exceed \$50,000. *See* Notice of Removal, Ex. 2, Rule 222(b) Aff., ECF No. 1-2.

satisfied, “jurisdiction will be defeated only if it appears to a legal certainty that the stakes of the lawsuit do not exceed \$75,000.” *Carroll v. Stryker Corp.*, 658 F.3d 675, 680–81 (7th Cir. 2011) (collecting cases). Accordingly, the only relevant question is whether, based on the allegations of Wedgewood’s complaint at the time of removal, it is legally impossible for him to recover more than \$75,000 in this suit. *See Back Doctors Ltd.*, 637 F.3d at 830.

As to that question, TDB points out that Wedgewood seeks punitive damages in the amount of \$50,000 for each of his five claims, as well as compensatory damages for loss of income, loss of reputation, and emotional harm. The Court is not limited to assessing the amount in controversy for each individual claim; rather, “[i]t is the *case*, rather than the *claim*, to which the \$75,000 minimum applies.” *Johnson v. Wattenbarger*, 361 F.3d 991, 993 (7th Cir. 2004). “Therefore, so long as the amount in controversy requirement is satisfied with respect to one count or the proper aggregation of counts,” diversity jurisdiction will not be found lacking. *LM Ins. Corp. v. Spaulding Enters. Inc.*, 533 F.3d 542, 548 (7th Cir. 2008).

“Where both actual and punitive damages are recoverable under a complaint[,] each must be considered to the extent claimed in determining the jurisdictional amount.” *Id.* at 551 (quoting *Cadek v. Great Lakes Dragaway*, 58 F.3d 1209, 1211 (7th Cir. 1995)). Additionally, “[w]hen a claim for punitive damages makes up the bulk of the amount in controversy . . . [courts] should scrutinize that claim closely.” *Anthony v. Sec. Pacific Fin. Servs., Inc.*, 75 F.3d 311, 315 (7th Cir. 1996). This requires a two-step analysis: the Court asks whether punitive damages are recoverable as a matter of state law, and if so, “the court has subject matter jurisdiction unless it is clear beyond a legal certainty that the plaintiff would under no circumstances be entitled to recover the jurisdictional amount.” *Id.* (internal quotation marks omitted).

TDB concedes that Count III, Wedgewood’s claim for intentional infliction of emotional distress, cannot support punitive damages under Illinois law. *See Knierim v. Izzo*, 174 N.E.2d 157, 165 (Ill. 1961). The Court further notes the oddity of Wedgewood’s request for punitive damages within Counts IV and V, which seek declaratory and injunctive relief. But TDB points out that Wedgewood also requests \$50,000 in punitive damages for each of his claims for defamation and false light (Counts I & II). Punitive damages are available for these causes of action under Illinois law. *See Poulos v. Lutheran Social Servs. of Ill., Inc.*, 728 N.E.2d 547, 561 (Ill. App. Ct. 2000) (“[L]ike an action for defamation of a public official, evidence sufficient to establish actual malice on the part of a defendant entitles a plaintiff in an action for false light to have his or her request for punitive damages considered by the trier of fact.”); *see also Imperial Apparel, Ltd. v. Cosmo’s Designer Direct, Inc.*, 882 N.E.2d 1011, 1020 (Ill. 2008). Accordingly, aggregated together, Wedgewood’s claims seek at least \$100,000 in punitive damages. *See LM Ins. Corp.*, 533 F.3d at 548. Wedgewood cannot point to any reason it would be legally *impossible* for him to obtain such damages, particularly where he also seeks compensatory damages for, among other things, loss of income. *Cf. id.* (noting that punitive damages may violate due process if the award exceeds four times the amount of compensatory damages). Accordingly, the Court concludes that the jurisdictional threshold is satisfied.

Conclusion

For the foregoing reasons, the Court denies Wedgewood's motion to remand [17]. Furthermore, the Court denies Wedgewood's requests for attorney's fees.

IT IS SO ORDERED.

ENTERED: 9/10/19



JOHN Z. LEE
United States District Judge