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CLERK, U.S. DISTRICT COURT
SEP 17 2004
CENTRAL DISTRICT OF CALIFORNIA
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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ERICA STEIP,

Plaintiff,

vs.

**STANDARD INSURANCE
COMPANY,**

Defendant.

CV 04-06324 FMC (FMOx)

**ORDER DENYING MOTION TO
REMAND**

This matter is before the Court on Plaintiff's Motion to Remand (docket #6). The Court has read and considered the Motion, Opposition (and its supporting declaration) and Reply. The Court deems this matter appropriate for decision without oral argument. See Fed. R. Civ. P. 78; Local Rule 7-15. Accordingly, the hearing set for September 20, 2004, is removed from the Court's calendar. For the reasons set forth below, the Court denies the Motion to Remand.

I. Background

This action is before the Court pursuant to its diversity jurisdiction. See 28 U.S.C. § 1332. In its notice of removal, Standard Insurance Company ("Standard") asserts that it is an Oregon corporation with a principal place of business in Oregon. Plaintiff has filed the present Motion to Remand,

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1 contending that Standard's principal place of business is in California, citing
2 an unpublished decision in a case in this district that so concludes. *See*
3 *Clayton v. Standard Ins. Co.*, CV 04-04630 RGK (Ex), July 23, 2004.

4 5 **II. Principal Place of Business**

6 In determining a corporation's principal place of business, the Ninth
7 Circuit applies a place of operations test. *Industrial Tectonics, Inc. v. Aero*
8 *Alloy*, 912 F.2d 1090 (9th Cir. 1990). Courts must determine where the
9 majority of a corporation's business activity takes place; to do so, courts
10 should consider such factors as the location of the corporation's employees,
11 its tangible property, its production activities, its income earning, its
12 purchases, and its sales. *Id.* If no state contains a substantial predominance
13 of the corporation's business activities, then courts may use an alternative
14 test, the "nerve center" test, which focuses on the location where a
15 corporation's executive and administrative functions are performed. *Id.*

16 17 **III. Place of Operations**

18 The Court examines each of the factors relevant to the place of
19 operations test.

20 21 **A. Location of Employees**

22 Standard employs 2,635 employees in 27 states. 78% of those
23 employees are located in Oregon. 2.5% are located in California.

24 25 **B. Property**

26 82% of Standard's real property is located in Oregon; only 6% of their
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1 real property is located in California.

2 85% of Standard's personal property (mostly office equipment) is
3 located in Oregon; only 2.83% is located in California.

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5 **C. Income and Sales**

6 Unquestionably, Standard receives more income from California than
7 from any other state. 14.83% of Standard's revenue from premiums comes
8 from California (12.22% comes from Oregon). Nevertheless, the Court is
9 persuaded by the rationale of other California courts that have concluded
10 that such revenue figures must be considered in the context of the
11 California's large population in comparison to other states. *See Arellano v.*
12 *Home Depot U.S.A.*, 245 F. Supp. 3d 1102 (S.D. Cal. 2003); *Ho v. Ikon Office*
13 *Solutions, Inc.*, 143 F. Supp. 2d 1163 (N.D. Cal. 2001).

14
15 **D. Production Activities**

16 Standard does not manufacture a tangible product that is sold;
17 therefore, its "production activities" cannot be measured by the presence of
18 manufacturing facilities. Nevertheless, analogous activities for the insurance
19 industry would include marketing and claims processing. Standard's
20 marketing activities and its claims processing occur in Oregon.

21
22 **E. Purchases**

23 Standard's purchases occur in Oregon.


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25 Applying these factors, Standard's business activities substantially
26 predominate in Oregon. Although Standard generates more income in
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1 California than Oregon, the Court is persuaded that this fact should be
2 discounted to take into account California's size. All the other *Industrial*
3 *Tectonics* factors weigh heavily in favor of a finding that Standard's business
4 activities substantially predominate in Oregon. Accordingly, the Court
5 concludes that Oregon is Standard's principal place of business.

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7 **IV. Conclusion**

8 For the reasons set forth above, Standard's principal place of business
9 is located in Oregon. Because Plaintiff is a California resident, the Court has
10 diversity jurisdiction over this action.

11 Dated: September 17, 2004

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13 FLORENCE-MARIE COOPER, Judge
14 UNITED STATES DISTRICT COURT
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