UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

Jake Pehrson v. Home Depot U.S.A., Inc. et al.

Pehrson · No. 8:25-cv-00823-DOC-DFM · Decided April 23, 2025

SUMMARY

The United States District Court for the Central District of California sua sponte remands this personal injury action to California state court. The court concludes that Home Depot failed to establish by a preponderance of the evidence that the amount in controversy exceeded $75,000, and therefore diversity jurisdiction was lacking.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	David O. Carter
JURISDICTION	United States District Court for the Central District of California
DECIDED	April 23, 2025
DOCKET	8:25-cv-00823-DOC-DFM
DISPOSITION	remanded
PROCEDURAL POSTURE	Home Depot removed a California personal-injury action from the Superior Court of California, County of Orange, asserting diversity jurisdiction. The district court sua sponte remanded the case for lack of subject matter jurisdiction because the removing defendant did not establish by a preponderance of the evidence that the amount in controversy exceeded $75,000.
STANDARD OF REVIEW	The removing defendant bears the burden of establishing federal subject matter jurisdiction. When the complaint does not clearly or unambiguously allege more than $75,000, the defendant must show by a preponderance of the evidence that the amount in controversy exceeds the jurisdictional threshold. Subject matter jurisdiction may be considered sua sponte at any time before final judgment.
PRECEDENTIAL VALUE	Unknown; district-court civil minute order with no reported citation or stated precedential designation.
PARTIES	Home Depot U.S.A., Inc. v. Jake Pehrson

TOPICS

subject matter jurisdiction · civil procedure · premises liability · negligence · personal injury

PRACTICE AREAS

civil procedure · federal jurisdiction · personal injury · premises liability

QUESTIONS PRESENTED

1. Whether the district court had diversity subject matter jurisdiction when the complaint did not specify a damages amount and the notice of removal relied principally on a statement of damages listing $1,000,000 for pain, suffering, and inconvenience.
2. Whether the case had to be remanded sua sponte because Home Depot failed to show by a preponderance of the evidence that the amount in controversy exceeded $75,000.

HOLDINGS

1. Home Depot failed to establish by a preponderance of the evidence that more than $75,000 was in controversy because its assertion was unsupported by underlying facts, the complaint alleged no numerical damages, and the statement of damages provided a speculative pain-and-suffering figure while leaving other damages as 'TBD.'
2. The court was required to remand the action to state court because it lacked diversity subject matter jurisdiction.
3. The court would not include speculative civil penalties or attorney fees in the amount in controversy calculation.

KEY QUOTATIONS

> *"If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded."* (2)

> *"Removal of a case from state court to federal court is governed by 28 U.S.C. § 1441"* (2)

> *"A removing defendant "may not meet [its] burden by simply reciting some 'magical incantation' to the effect that 'the matter in controversy exceeds the sum of [$75,000],' but instead, must set forth in the removal petition the underlying facts supporting its assertion that the amount in controversy exceeds [$75,000].""* (3)

FACTUAL BACKGROUND

Pehrson alleged that on March 9, 2023, while browsing at a Home Depot store in Santa Ana, California, a 50-pound bag of wet concrete mix fell from a display shelf and struck his spine, causing serious bodily injuries. He asserted negligence and premises-liability claims against Home Depot and Doe defendants. Although Pehrson's statement of damages listed $1,000,000 for pain, suffering, and inconvenience, it provided no amount for medical expenses or lost wages and the complaint alleged no numerical amount of damages.

PROCEDURAL HISTORY

Pehrson filed suit in Orange County Superior Court on March 3, 2025, alleging negligence and premises liability arising from injuries allegedly caused by a falling bag of concrete mix. Home Depot was served on March 19, 2025, and removed the action on April 18, 2025. On April 23, 2025, the district court determined that the amount-in-controversy requirement for diversity jurisdiction was not established and remanded the action sua sponte.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The Clerk was directed to serve the minute order on the parties. The action was remanded to the Superior Court of Orange County.

CASES CITED

- Ethridge v. Harbor House Rest., 861 F.2d 1389, 1393 (9th Cir. 1988)
- Exxon Mobil Corp. v. Allapattah Servs., Inc., 545 U.S. 546, 553 (2005)
- Guglielmino v. McKee Foods Corp., 506 F.3d 696, 699 (9th Cir. 2007)
- St. Paul Mercury Indem. Co. v. Red Cab Co., 303 U.S. 283, 288-89 (1938)
- Crum v. Circus Enters., 231 F.3d 1129, 1131 (9th Cir. 2000)
- Gaus v. Miles, Inc., 980 F.2d 564, 567 (9th Cir. 1992)
- Sanchez v. Monumental Life Ins. Co., 102 F.3d 398, 403-04 (9th Cir. 1996)
- Richmond v. Allstate Ins. Co., 897 F. Supp. 447, 450 (S.D. Cal. 1995)
- Coleman v. Estes Express Lines, Inc., 730 F. Supp. 2d 1141, 1148-49 (C.D. Cal. 2010)
- Matheson v. Progressive Specialty Ins. Co., 319 F.3d 1089, 1090-91 (9th Cir. 2003)
- Singer v. State Farm Mut. Auto. Ins. Co., 116 F.3d 373, 377 (9th Cir. 1997)
- Gonzalez v. Crosby, 545 U.S. 524, 534 (2005)
- Steel Co. v. Citizens for a Better Env't, 523 U.S. 83, 94, 101-02 (1998)
- Snell v. Cleveland, Inc., 316 F.3d 822, 826 (9th Cir. 2002)
- Galt G/S v. JSS Scandinavia, 142 F.3d 1150, 1156 (9th Cir. 1998)

OPINION

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES – GENERAL Case No. 8:25-cv-00823-DOC-DFM Date: April 23, 2025 Title: Jake Pehrson v. Home Depot U.S.A., Inc. et al. PRESENT: THE HONORABLE DAVID O. CARTER, JUDGE Karlen Dubon Not Present Courtroom Clerk Court Reporter ATTORNEYS PRESENT FOR ATTORNEYS PRESENT FOR PLAINTIFF: DEFENDANT: None Present None Present PROCEEDINGS (IN CHAMBERS): ORDER REMANDING CASE TO STATE COURT SUA

SPONTE On the Court's own motion, the Court hereby REMANDS this case to the Superior Court of California, County of Orange.

I. Background This is a personal injury action. Plaintiff Jake Pehrson alleges that he was "browsing" at a Home Depot store in Santa Ana, CA on March 9, 2023 when a 50 pound bag of wet concrete mix fell from a display shelf and hit his spine causing serious bodily injuries. Complaint (Dkt. 1, Ex. A). Plaintiff alleges causes of action for negligence and premises liability against Defendant Home Depot U.S.A.

Inc, and Does 1-50. Id. Plaintiff originally filed suit in the Superior Court of California, County of Orange, on March 3, 2025 and Defendant Home Depot was served on March 19, 2025. Notice of Removal ("Not.") (Dkt. 1).

On April 18, 2025, Defendant removed the action to this Court, asserting diversity jurisdiction. Id. II. Legal Standard "If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded." 28 U.S.C. § 1447(c). Removal of a case CIVIL MINUTES – GENERAL Case No. 8:25-cv-00823-DOC-DFM Date: April 23, 2025 Page 2 from state court to federal court is governed by 28 U.S.C. § 1441, which provides in relevant part that "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed... 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.

This statute "is strictly construed against removal jurisdiction," and the party seeking removal "bears the burden of establishing federal jurisdiction." Ethridge v. Harbor House Rest., 861 F.2d 1389, 1393 (9th Cir. 1988) (emphasis added) (citations omitted). Federal diversity jurisdiction requires that the parties be citizens of different states and that the amount in controversy exceed $75,000.

28 U.S.C. § 1332(a). For diversity jurisdiction purposes, a corporation is "deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business." 28 U.S.C. § 1332(c)(1).

The presence of any single plaintiff from the same state as any single defendant destroys "complete diversity" and strips the federal courts of original jurisdiction over the matter. Exxon Mobil Corp. v. Allapattah Servs., Inc., 545 U.S. 546, 553 (2005). Generally, a removing defendant must prove by a preponderance of the evidence that the amount in controversy satisfies the jurisdictional threshold.

Guglielmino v. McKee Foods Corp., 506 F.3d 696, 699 (9th Cir. 2008). If the complaint affirmatively alleges an amount in controversy greater than $75,000, the jurisdictional requirement is "presumptively satisfied." Id. In that situation, a plaintiff who then tries to defeat removal must prove to a "legal certainty" that a recovery of more than $75,000 is impossible.

St. Paul Mercury Indem. Co. v. Red Cab Co., 303 U.S. 283, 288-89 (1938); Crum v. Circus Enters., 231 F.3d 1129, 1131 (9th Cir. 2000). This framework applies equally to situations where the complaint leaves the amount in controversy unclear or ambiguous. See Gaus v. Miles, Inc., 980 F.2d 564, 567 (9th Cir. 1992); Sanchez v. Monumental Life Ins. Co., 102 F.3d 398, 403-04 (9th Cir.

1996). A removing defendant "may not meet [its] burden by simply reciting some 'magical incantation' to the effect that 'the matter in controversy exceeds the sum of [$75,000],' but instead, must set forth in the removal petition the underlying facts supporting its assertion that the amount in controversy exceeds [$75,000]." Richmond v. Allstate Ins. Co., 897 F. Supp. 447, 450 (S.D.

Cal. 1995) (quoting Gaus, 980 F.2d at 567). If the plaintiff has not clearly or unambiguously alleged $75,000 in its complaint or has affirmatively alleged an amount less than $75,000 in its complaint, the burden lies with the defendant to show by a preponderance of the evidence that the jurisdictional CIVIL MINUTES – GENERAL Case No. 8:25-cv-00823-DOC-DFM Date: April 23, 2025 Page 3 minimum is satisfied.

Geographic Expeditions, Inc. v. Estate of Lhotka ex rel. Lhotka, 599 F.3d 1102, 1106-07 (9th Cir. 2010); Guglielmino, 506 F.3d at 699. While the defendant must "set forth the underlying facts supporting its assertion that the amount in controversy exceeds the statutory minimum," the standard is not so taxing so as to require the defendant to "research, state, and prove the plaintiff's claims for damages." Coleman v. Estes Express Lines, Inc., 730 F. Supp. 2d 1141, 1148 (C.D.

Cal. 2010) (emphases added). In short, the defendant must show that it is "more likely than not" that the amount in controversy exceeds the statutory minimum. Id. Summary judgment-type evidence may be used to substantiate this showing. Matheson v. Progressive Specialty Ins. Co., 319 F.3d 1089, 1090–91 (9th Cir. 2003); Singer v. State Farm Mut. Auto. Ins. Co., 116 F.3d 373, 377 (9th Cir.

1997). For example, defendants may make mathematical calculations using reasonable averages of hourly, monthly, and annual incomes of comparable employees when assessing the amount in controversy in a wrongful termination suit. Coleman, 730 F. Supp. 2d. at 1148–49. If the court lacks subject matter jurisdiction, any action it takes is ultra vires and void. See Gonzalez v. Crosby, 545 U.S. 524, 534 (2005); Steel Co. v. Citizens for a Better Env't, 523 U.S. 83, 94, 101–02 (1998).

The lack of subject matter jurisdiction may be raised at any time by either the parties or the court. Fed. R. Civ. P. 12(h)(3). If subject matter jurisdiction is found to be lacking, the court must dismiss the action, id., or remand pursuant to 28 U.S.C. § 1447(c). A court may raise the question of subject matter jurisdiction sua sponte. See Snell v. Cleveland, Inc., 316 F.3d 822, 826 (9th Cir.

2002). III. Discussion Defendant argues that this Court has diversity jurisdiction in this action. Not. ¶ 10. The Court disagrees. Defendant has not met its burden to show that the amount in controversy requirement is satisfied. Defendant states that the amount in controversy exceeds $75,000. Not. ¶ 10.

However, this assertion is not supported by underlying facts in the Notice of Removal and Plaintiff has not alleged any numerical amount of damages in his Complaint. Defendant's only support for the amount in controversy is a Statement of Damages from Plaintiff dated March 18, 2025 for an amount over $75,000. Not. ¶ 4; Ex. D, Not.

The Statement of Damages lists "pain, suffering, and inconvenience" as $1,000,000 but provides no amount and states "TBD" for other damages such as medical expenses or lost wages. Ex. D, Not. Plaintiff has not alleged any numerical amount for concrete damages and the damages sought for pain and suffering are speculative without CIVIL MINUTES – GENERAL Case No. 8:25-cv-00823-DOC-DFM Date: April 23, 2025 Page 4 a basis in any facts.

While Plaintiff might have suffered injuries warranting the amount listed, the record before the Court today does not support that. Further, the Court will not include speculative civil penalties or attorneys' fees to meet the amount in controversy requirement. See Galt G/S v. JSS Scandinavia, 142 F.3d 1150, 1156 (9th Cir. 1998) ("We hold that where an underlying statute authorizes an award of attorneys' fees, either with mandatory or discretionary language, such fees may be included in the amount in controversy.") (emphasis added).

Because Defendant has not satisfied their burden to show that more than $75,000 is at issue in this case, the Court lacks diversity jurisdiction. The Court's decision not to include speculative awards in the amount in controversy is reinforced by the fact that Congress has not raised the amount in controversy since 1996—nearly three decades ago.1 See The Federal Courts Improvement Act of 1996, 110 Stat. 3850.

Since then, the inflation rate is nearly 100% (i.e., prices have almost doubled). Thus, adjusted for inflation, the amount in controversy should be around $150,000. Stated conversely, a case worth $75,000 in 1996 is worth only $37,500 in today's dollars.

Because inflation has plainly decreased the "real" value of the amount in controversy, more and more cases are able to meet the jurisdictional threshold and can be brought in federal court. As federal diversity jurisdiction expands, state court jurisdiction to decide purely state law issues and develop state law correspondingly decreases.

Thus, the federal jurisdictional creep is incompatible with the most basic principles of federalism. Federalism is not the only loser in Congress's failure to increase the amount in controversy. When a case is improperly removed, as happened here, ultimate resolution is delayed.

Moreover, if a court does not immediately remand a case sua sponte, a plaintiff may move to remand. Because cases subject to motion to remand are typically small dollar cases, this increased motion work can quickly cause attorneys' fees to outrun any potential recovery and places an immense burden on a plaintiff's lawyer working on contingency.

In this respect, the current low jurisdictional threshold reduces access to justice. Therefore, the Court respectfully encourages Congress to reconsider the amount in controversy minimum. 1 For reference, in 1996, the minimum wage was $4.75 per hour, and only 16% of Americans had cell phones. Indeed, the current amount-in-controversy is older than both of my law clerks.

CIVIL MINUTES – GENERAL Case No. 8:25-cv-00823-DOC-DFM Date: April 23, 2025 Page 5 IV. Disposition For the reasons set forth above, the Court hereby REMANDS this case to the Superior Court of Orange County. The Clerk shall serve this minute order on the parties. MINUTES FORM 11 Initials of Deputy Clerk: kdu CIVIL-GEN