

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Kunstel v. General Motors LLC

Kunstel · No. 2:25-cv-06859-MCS-SSC · Decided September 8, 2025

SUMMARY

The United States District Court for the Central District of California granted Plaintiffs Timothy Jon Kunstel and Patricia Lynn Kunstel’s motion to remand after finding that Defendant General Motors LLC failed to timely oppose the motion and therefore conceded that removal was untimely. The Court remanded the case to the Los Angeles County Superior Court, declined to award attorney fees, directed immediate remand, and closed the federal case.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Mark C. Scarsi
JURISDICTION	United States District Court for the Central District of California
DECIDED	September 8, 2025
DOCKET	2:25-cv-06859-MCS-SSC
DISPOSITION	remanded
PROCEDURAL POSTURE	Plaintiffs moved to remand an action that Defendant General Motors LLC had removed from Los Angeles County Superior Court. The district court granted remand and denied Plaintiffs' request for attorney fees and costs.
STANDARD OF REVIEW	The court treated an award of fees and costs under 28 U.S.C. § 1447(c) as discretionary and declined to award them because Plaintiffs failed to comply with the court's rules governing fee motions.
PRECEDENTIAL VALUE	Unreported district court order; precedential status is unknown and no reporter citation appears.
PARTIES	Timothy Jon Kunstel, Patricia Lynn Kunstel v. General Motors LLC

TOPICS

- civil procedure
- motions to dismiss
- attorney fees
- costs
- remedies

PRACTICE AREAS

Civil procedure

Removal and remand

Attorney fees

QUESTIONS PRESENTED

1. Whether the action should be remanded because General Motors removed it more than 30 days after service of the complaint.
2. Whether Plaintiffs should receive attorney fees and costs incurred as a result of the removal under 28 U.S.C. § 1447(c).

HOLDINGS

1. Remand was warranted because the basis for federal jurisdiction was ascertainable from the face of the complaint and removal occurred more than 30 days after service of the complaint; Defendant's failure to timely oppose the motion was deemed consent to granting it.
2. The court declined to award attorney fees and costs under 28 U.S.C. § 1447(c) because the award is discretionary and Plaintiffs failed to comply with the court's rules governing motions for fees.

KEY QUOTATIONS

“The Court deems Defendant’s failure to timely respond to the motion as its consent to the granting of the motion.” (1)

“In particular, the Court deems conceded that a basis for federal jurisdiction was ascertainable from the face of Plaintiffs’ complaint, so Defendant’s removal of the action over 30 days after service of the complaint was untimely.” (1)

“An order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal.” (2)

FACTUAL BACKGROUND

General Motors removed Plaintiffs' action from Los Angeles County Superior Court. Plaintiffs asserted that the basis for federal jurisdiction was ascertainable from the face of their complaint and that removal occurred more than 30 days after service of the complaint. General Motors failed to timely oppose the motion to remand. Plaintiffs also sought fees and costs incurred because of the removal, but did not comply with the court's fee-motion rules.

PROCEDURAL HISTORY

General Motors removed the action from Los Angeles County Superior Court, case No. 25STCV07161. Plaintiffs moved to remand. Defendant failed to file a timely opposition, and the court deemed that failure consent to the motion and deemed conceded that the removal was untimely. The court remanded the action to the Los Angeles County Superior Court and directed the Clerk to close the federal case.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The Clerk was directed to effect the remand immediately to the Los Angeles County Superior Court, case No. 25STCV07161, and close the federal case. The court denied the request for fees and costs.

CASES CITED

- Shaw v. Costco Wholesale Corp., No. 2:25-cv-03035 MWC (MARx), 2025 U.S. Dist. LEXIS 104336, at *3 (C.D. Cal. June 2, 2025)
- Christian v. Mattel, Inc., 286 F.3d 1118, 1129 (9th Cir. 2002)
- Martin v. Franklin Capital Corp., 546 U.S. 132, 139 (2005)
- Alvarez v. Gen. Motors LLC, No. 5:25-cv-01955-MCS-MAA (C.D. Cal. Aug. 15, 2025), ECF No. 14

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