

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

OPINION

Timothy Jon Kunstel v. General Motors LLC

PER CURIAM.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES — GENERAL

Case No. 2:25-cv-06859-MCS-SSC Date September 8, 2025 Title Kunstel v. General Motors LLC
Present: The Honorable Mark C. Scarsi, United States District Judge Stephen Montes Kerr —
———NotReported Deputy Clerk Court Reporter Attorney(s) Present for Plaintiff(s): Attorney(s)
Present for Defendant(s): None Present None Present Proceedings: (IN CHAMBERS) ORDER
RE: MOTION TO REMAND (ECF No. 13) (JS-6) Plaintiffs Timothy Jon Kunstel and Patricia
Lynn Kunstel move to remand this case to the state court from which Defendant General Motors
LLC removed it. (Mot., ECF No. 13.) The Court deems the motion appropriate for decision
without oral argument and vacates the hearing set for October 6, 2025. Fed. R. Civ. P. 78(b); ☐☐☐☐
Cal. R. 7-15. Defendant did not file a timely response brief. (Initial Standing Order § 9(b), ECF
No. 7 (setting motion briefing deadlines departing from the local rules).) The Court deems
Defendant's failure to timely respond to the motion as its consent to the granting of the motion.
C.D. Cal. R. 7-12; e.g., 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) (collecting cases granting motions
to remand based on failure to file a timely opposition); see Christian v. Mattel, Inc., 286 F.3d 1118,
1129 (9th Cir. 2002) ("The district court has considerable latitude in managing the parties' motion
practice and enforcing local rules that place parameters on briefing."). In particular, the Court
deems conceded that a basis for federal jurisdiction was ascertainable from ' Defendant's
opposition brief is stricken as untimely. (Opp'n, ECF No. 15.) Page 1 of 2 CIVIL MINUTES —
GENERAL Initials of Deputy Clerk SMO the face of Plaintiffs' complaint, so Defendant's

removal of the action over 30 days after service of the complaint was untimely. (Mot. 4–5); see 28 U.S.C. § 1446(b)(1),

(3). Remand is warranted.

In connection with the motion, Plaintiffs request an award of fees incurred because of removal. (Mot. 8–9.) “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.” 28 U.S.C. § 1447(c). An award of fees and costs is discretionary. *Martin v. Franklin Cap. Corp.*, 546 U.S. 132, 139 (2005). The Court declines to exercise its discretion to issue an award given Plaintiffs’ failure to comply with the Court’s rules governing motions for fees. (Initial Standing Order § 10(d).)² The Court remands the case to the Los Angeles County Superior Court, No. 25STCV07161. The Court directs the Clerk to effect the remand immediately and close the federal case. IT IS SO ORDERED. ² The Court also questions the veracity of representations by counsel regarding the time incurred after removal. (Yang Decl. ¶ 11, ECF No. 13-1.) For example, the Court doubts that drafting this motion required over an hour and a half of attorney time given that counsel filed several substantially identical motions in other cases assigned to this judicial officer. See generally, e.g., Motion to Remand, *Alvarez v. Gen. Motors LLC*, No. 5:25-cv-01955-MCS-MAA (C.D. Cal. Aug. 15, 2025), ECF No. 14. Time spent toward most of these motions must have been saved in adapting the first that was drafted.