

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Tim McVay v. Target; Target Corporation; and Does 1 to 100,
inclusive

McVay · No. 2:25-cv-00168-TLN-CSK · Decided September 26, 2025

SUMMARY

The United States District Court for the Eastern District of California denied Tim McVay’s motion to remand a premises-liability action against Target Corporation and his application for leave to file an amended complaint. The court held that fictitious Doe defendants’ citizenship should be disregarded because the complaint did not identify them with sufficient detail, and it found that diversity jurisdiction and the amount-in-controversy requirement were satisfied. The court also denied the prospective amendment request because Plaintiff had not identified any individual to be added.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Troy L. Nunley
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	September 26, 2025
DOCKET	2:25-cv-00168-TLN-CSK
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved to remand a removed diversity action and separately sought leave to file an amended complaint to identify Doe defendants. The district court denied both requests.
STANDARD OF REVIEW	The removing party bears the burden of establishing federal diversity jurisdiction by a preponderance of the evidence. Removal statutes are strictly construed against removal. The amount in controversy is evaluated based on the complaint, the notice of removal, and appropriate summary-judgment-type evidence where necessary.
PRECEDENTIAL VALUE	unpublished
PARTIES	Tim McVay v. Target, Target Corporation, Does 1 to 100, inclusive

TOPICS

subject matter jurisdiction

civil procedure

motion to amend

premises liability

negligence

PRACTICE AREAS

civil procedure

premises liability

negligence

QUESTIONS PRESENTED

1. Whether the citizenship of the unidentified Doe defendants defeated complete diversity for purposes of removal.
2. Whether the amount in controversy exceeded \$75,000 and supported diversity jurisdiction.
3. Whether Plaintiff should be granted leave to file a prospective amended complaint to substitute the names of Doe defendants.

HOLDINGS

1. The citizenship of the Doe defendants was disregarded because federal law requires the citizenship of defendants sued under fictitious names to be disregarded, and Plaintiff's allegations did not provide sufficient detail to give a definitive clue to their identities.
2. The amount in controversy exceeded the \$75,000 jurisdictional threshold because Plaintiff's state-court statement of damages alleged \$5,000,000 in damages.
3. Leave to amend was denied because Plaintiff had not identified any individual whom he sought to add and his application did not explain why amendment should be permitted at that juncture.

KEY QUOTATIONS

"Therefore, the Court disregards the citizenship of Doe Defendants for jurisdictional purposes." (at 3)

"Therefore, based on Plaintiff's allegations in his Complaint, the Court finds the amount in controversy far exceeds \$75,000." (at 4)

FACTUAL BACKGROUND

McVay alleged that he was injured in a slip-and-fall incident at Target's store in Elk Grove, California, on January 19, 2022. He asserted general negligence and premises-liability claims and sought damages including lost wages, medical expenses, general damages, and lost earning capacity. His state-court statement of damages alleged \$5,000,000 in damages. The complaint named fictitious Doe defendants described only as Target employees potentially responsible for the incident.

PROCEDURAL HISTORY

McVay filed a premises-liability and negligence complaint in Sacramento Superior Court arising from a slip-and-fall at a Target store. Target removed the action to the Eastern District of California on January 13, 2025, asserting diversity jurisdiction. McVay moved to remand and applied for leave to amend, and the court denied both motions.

DISPOSITION

other

CASES CITED

- Lew v. Moss, 797 F.2d 747, 749 (9th Cir. 1986)
- Resnik v. La Paz Guest Ranch, 289 F.2d 814, 819 (9th Cir. 1961)
- Strotek Corp. v. Air Transp. Ass'n of Am., 300 F.3d 1129, 1131 (9th Cir. 2002)
- Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992)
- Dart Cherokee Basin Operating Co., LLC v. Owens, 574 U.S. 81, 87–89 (2014)
- Kroske v. U.S. Bank Corp., 432 F.3d 976, 980 (9th Cir. 2005)
- Singer v. State Farm Mut. Auto. Ins. Co., 116 F.3d 373, 376 (9th Cir. 1997)
- Sanchez v. Monumental Life Ins. Co., 102 F.3d 398, 404 (9th Cir. 1996)
- Allen v. R & H Oil & Gas Co., 63 F.3d 1326, 1335–36 (5th Cir. 1995)
- Caterpillar Inc. v. Lewis, 519 U.S. 61, 68 (1996)
- Weight v. Active Network, Inc., 29 F. Supp. 3d 1289, 1292 (S.D. Cal. 2014)
- Sandoval v. Republic Servs., Inc., No. 2:18-CV-01224-ODW(KSX), 2018 WL 1989528, at *3 (C.D. Cal. Apr. 24, 2018)
- Collins v. Garfield Beach CVS, LLC, No. CV 17-3375 FMO (GJSx), 2017 WL 2734708, at *2 (C.D. Cal. 2017)
- Brown v. TranSouth Fin. Corp., 897 F. Supp. 1398, 1401 (M.D. Ala. 1995)
- Mazariego v. Walmart, No. 1:24-CV-00612-KES-SAB, 2024 WL 3594596, at *3 (E.D. Cal. July 30, 2024)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 TIM MCVAY, 12 Plaintiff, No. 2:25-cv-00168-TLN-CSK 13 14 v. ORDER
TARGET; TARGET CORPORATION; 15 and DOES 1 to 100, inclusive, 16 Defendants. 17 18
This matter is before the Court on Plaintiff Tim McVay’s (“Plaintiff”) Motion to Remand. 19 (ECF
No. 10.) Defendant Target Corporation (“Defendant”) filed an opposition.

(ECF No. 14.) 20 Plaintiff did not file a reply. Also before the Court is Plaintiff’s Application for
Leave to File an 21 Amended Complaint. (ECF No. 11.) Defendant filed an opposition. (ECF No.
15.) Plaintiff did 22 not file a reply.

For the reasons set forth below, Plaintiff’s Motion to Remand and Application 23 for Leave to File
an Amended Complaint are DENIED. 24 /// 25 /// 26 /// 27 28 1 I. FACTUAL AND
PROCEDURAL BACKGROUND 2 This is a premises liability case in which Plaintiff alleges he
sustained injuries from a slip 3 and fall incident (“the Subject Incident”) at Defendant’s store
located in Elk Grove, California on 4 January 19, 2022.

(ECF No. 1 at 7.) On January 18, 2024, Plaintiff filed a complaint in 5 Sacramento Superior Court alleging: (1) general negligence and (2) premises liability. (Id. at 6.) 6 Plaintiff alleges he suffered: (1) loss of wages; (2) hospital and medical expenses; (3) general 7 damages; (4) loss of earning capacity; and (5) other damages according to proof. (Id.)

On 8 January 13, 2025, Defendant removed the action to this Court based on diversity jurisdiction. 9 (ECF No. 1.) On February 12, 2025, Plaintiff filed the instant Motion to Remand and Application 10 for Leave to File an Amended Complaint. (ECF Nos. 10, 11.) 11 II. STANDARD OF LAW 12 A civil action brought in state court, over which the district court has original jurisdiction, 13 may be removed by the defendant to federal court in the judicial district and division in which the 14 state court action is pending.

28 U.S.C. § 1441(a). The district court has original jurisdiction 15 over civil actions between citizens of different states in which the alleged damages exceed 16 \$75,000. 28 U.S.C. § 1332(a) (1). The party asserting federal jurisdiction bears the burden of 17 proving diversity. *Lew v. Moss*, 797 F.2d 747, 749 (9th Cir. 1986) (citing *Resnik v. La Paz Guest 18 Ranch*, 289 F.2d 814, 819 (9th Cir.

1961)). Diversity is determined as of the time the complaint 19 is filed and removal effected. *Strotek Corp. v. Air Transp. Ass’n of Am.*, 300 F.3d 1129, 1131 20 (9th Cir. 2002). Removal statutes are to be strictly construed against removal. *Gaus v. Miles, 21 Inc.*, 980 F.2d 564, 566 (9th Cir. 1992) (overruled on other grounds in *Dart Cherokee Basin 22 Operating Co., LLC v. Owens*, 574 U.S. 81, 87–89 (2014)).

23 The amount in controversy is determined by reference to the complaint itself and includes 24 the amount of damages in dispute, as well as attorney’s fees, if authorized by statute or contract. 25 *Kroske v. U.S. Bank Corp.*, 432 F.3d 976, 980 (9th Cir. 2005). Where the complaint does not 26 pray for damages in a specific amount, the defendant must prove by a preponderance of the 27 evidence that the amount in controversy exceeds \$75,000.

Singer v. State Farm Mut. Auto. Ins. 28 Co., 116 F.3d 373, 376 (9th Cir. 1997) (citing *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 1 398, 404 (9th Cir. 1996)). If the amount is not facially apparent from the complaint, the Court 2 may “require parties to submit summary-judgment-type evidence relevant to the amount in 3 controversy at the time of removal.” Id. (citing *Allen v. R & H Oil & Gas Co.*, 63 F.3d 1326, 4 1335–36 (5th Cir.

1995)). 5 Removal based on diversity requires that the citizenship of each plaintiff be diverse from 6 the citizenship of each defendant (i.e., complete diversity). *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 7 68 (1996). A corporation is a citizen of any state in which it is incorporated and any state in 8 which it maintains its principal place of business. 28 U.S.C. § 1332(c)(1).

An individual 9 defendant's citizenship is determined by the state in which they are domiciled. *Weight v. Active 10 Network, Inc.*, 29 F. Supp. 3d 1289, 1292 (S.D. Cal. 2014). The citizenship of defendants sued 11 under fictitious names shall be disregarded when determining removal based on federal diversity 12 jurisdiction. 28 U.S.C. § 1441(b)(1). 13 III. ANALYSIS 14 Plaintiff argues this action should be remanded because complete diversity does not exist 15 as Defendant's employees "potentially responsible" for causing the Subject Incident — Doe 16 Defendants — are California residents.

(ECF No. 10 at 5.) Plaintiff further argues Defendant 17 failed to provide any admissible evidence in support of its contention that the amount in 18 controversy exceeds \$75,000. (Id.) The Court considers each argument in turn. 19 A. Diversity of Citizenship 20 Plaintiff contends he is a citizen of California as are Doe Defendants. (Id. at 7.) Plaintiff 21 argues courts should consider Doe Defendants' citizenship especially "when a named defendant 22 knew or should have known the fictitious defendant's identity because that defendant employed 23 the fictitiously named defendant." (Id. at 8 (citing *Sandoval v. Republic Servs., Inc.*, No. 2:18– 24 CV–01224–ODW(KSX), 2018 WL 1989528, at *3 (C.D.

Cal. Apr. 24, 2018)).) 25 In opposition, Defendant argues, for the purposes of removal jurisdiction, "the citizenship 26 of defendants sued under fictitious names shall be disregarded." (ECF No. 14 at 4 (citing 28 27 U.S.C. § 1441 (b)).) Further, Defendant argues even when courts have considered the citizenship 28 of a Doe defendant on a motion to remand, the Doe defendant was specifically identified.

(Id. at 1 5.) Defendant contends Plaintiff has not taken any action to even attempt to identify the alleged 2 Doe Defendants, let alone provide any physical description or other information to identify the 3 Doe Defendants. (Id. at 6.) 4 "In determining whether a civil action is removable on the basis of the jurisdiction under 5 section 1332(a) of this title, the citizenship of defendants sued under fictitious names shall be 6 disregarded." 28 U.S.C § 1441(b)(1).

The Court, however, recognizes some district courts have 7 considered the citizenship of fictitious defendants in instances where a complaint identifies a Doe 8 defendant with sufficient detail to give a definitive clue as to their identity. See *Collins v. 9 Garfield Beach CVS, LLC*, Case No. CV 17–3375 FMO (GJSx), 2017 WL 2734708, at *2 (C.D. 10 Cal. 2017) (quoting *Brown v. TranSouth Fin.*

Corp., 897 F. Supp. 1398, 1401 (M.D. Ala. 1995)). 11 Here, even if the Court were persuaded to follow the approach that considers the 12 citizenship of fictitious defendants where Plaintiff has plausibly alleged facts to identity them, 13 Plaintiff's allegations regarding the identity of the Doe Defendants are insufficient. See 14 *Mazariego v. Walmart*, No. 1:24-CV-00612-KES-SAB, 2024 WL 3594596, at *3 (E.D.

Cal. July 15 30, 2024) (denying Plaintiff's motion to remand because Plaintiff's allegations failed to give any 16 definite clue about the alleged Doe employees' identities, how they were involved in the 17 underlying slip and fall, or any inclination that they were California citizens). Plaintiff does not 18 allege facts to identity a particular Target employee who was involved in the Subject Incident.

19 Instead, Plaintiff merely alleges the Doe Defendants are "Target employees potentially 20 responsible for causing the Subject Incident." (ECF No. 10 at 5.) This is not sufficient detail to 21 give a definitive clue as to the identities of the Doe Defendants.

Therefore, the Court disregards 22 the citizenship of Doe Defendants for jurisdictional purposes. 23 Accordingly, diversity of citizenship exists because Plaintiff is a citizen of California and 24 Defendant is a citizen of Minnesota. (ECF No. 10 at 7; ECF No. 14 at 3.) 25 B. Amount in Controversy 26 Plaintiff also contends this action should be remanded because Defendant failed to prove 27 by a preponderance of evidence that the amount in controversy exceeds \$75,000.

(ECF No. 6 at 28 11.) In opposition, Defendant contends Plaintiff's own allegations confirm the amount in 1 || controversy exceeds the jurisdictional minimum of \$75,000. (ECF No. 14 at 8.) Specifically, 2 | Plaintiff's Statement of Damages filed with the Complaint in state court alleged \$5,000,000 in 3 | damages, thus far exceeding the jurisdictional minimum. (/d.)

4 In assessing the amount in controversy, courts may consider allegations in the complaint 5 | and in the notice of removal, as well as summary-judgment-type evidence relevant to the amount 6 | in controversy. Kroske, 432 F.3d at 980. Evidence establishing the amount is required by 28 7 | U.S.C § 1446(c)(2)(B) only when the plaintiff contests, or the court questions, the defendant's 8 | allegations in its notice of removal.

See Owens, 574 U.S. at 89. 9 Here, Plaintiff's Statement of Damages states Plaintiff suffered \$5,000,000 in damages as 10 | a result of the Subject Incident. (ECF No. 14-1 at 15.) Therefore, based on Plaintiff's allegations 11 in his Complaint, the Court finds the amount in controversy far exceeds \$75,000. 12 In sum, the Court finds diversity of citizenship between the parties exists and the amount 13 | in controversy exceeds \$75,000.

Accordingly, Plaintiff's Motion to Remand is DENIED. 14 C. Plaintiff's Application for Leave 15 Plaintiff requests leave to file a First Amended Complaint "at a later time" to substitute 16 | the full and correct names of Doe Defendants. (ECF No. 11 at 3.) While Plaintiff cites to Federal 17 | Rule of Civil Procedure ("Rule") 15, the Application for Leave is devoid of any discussion of 18 | Rule 15 or why it would be appropriate to grant Plaintiff's prospective request at this juncture.

19 | (See generally *id.*) At this time, Plaintiff has not identified an individual person which it seeks to 20 | add to the Complaint. Without more, the Court DENIES Plaintiff's Application for Leave. 21 IV. CONCLUSION 22 For the foregoing reasons, the Court DENIES Plaintiff's Motion to

Remand (ECF No. 10) 23 | and Application for Leave to File an Amended Complaint (ECF No. 11).

24 IT IS SO ORDERED. 25 | Date: September 25, 2025 26 7, 27 28 TROY L. NUNLEY CHIEF
UNITED STATES DISTRICT JUDGE

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