

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Eleanor Colbert v. Tesla, Inc., et al.

Colbert v. Tesla · No. 25-cv-09311-JST · Decided December 31, 2025

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7
ELEANOR COLBERT, Case No. 25-cv-09311-JST 8 Plaintiff, ORDER REMANDING CASE v.
9 10 TESLA, INC., et al., Defendants. 11 12 13 In its order to show cause as to why this case
should not be remanded, the Court explained 14 why it believed Defendant Tesla, Inc.’s removal
of this case was improper.

ECF No. 13. Tesla 15 contends that the Court has diversity jurisdiction under 28 U.S.C. § 1332. It
asserts that the 16 individual Defendants’ citizenship—which it does not dispute is the same as
Plaintiff Eleanor 17 Colbert’s citizenship and would therefore deprive the Court of jurisdiction if it
were considered— 18 should be disregarded because those Defendants had not been served at the
time of removal.

The 19 Court explained that, while 28 U.S.C. § 1441(b)(2) might not prevent removal in a case
involving 20 a forum-based defendant if that defendant had not yet been served, that did not mean
that the 21 citizenship of that defendant is not considered when determining whether diversity
jurisdiction 22 exists. ECF No. 13 at 1–2 (citing *Guerrero v. SFS Beauty CA LLC*, No. 25-cv-
1133-JES-KSC, 23 2025 WL 2460193, at *3 (S.D.

Cal. Aug. 26, 2025); *Wagner v. SpaceX*, No. 2:25-cv-04703-SB- 24 MAR, 2025 WL 2161333, at
*1 (C.D. Cal. July 28, 2025)). 25 In its response to the order to show cause, Tesla relies on what it
acknowledges is dicta 26 from *Cripps v. Life Insurance Company of North America*, 980 F.2d
1261, 1266 (9th Cir. 1992). 27 As explained by another court in this district when it remanded a
similar case removed by Tesla: 1 interpleader actions under 28 U.S.C. § 1335, or Congress’s 1988
amendments to 28 U.S.C. 2 || § 1441, which provided unserved ‘Doe’ defendants are disregarded
for diversity purposes, 3 overrules” Ninth Circuit precedent that “[w]henever federal jurisdiction
in a removal case depends 4 || upon complete diversity, the existence of diversity is determined
from the fact of citizenship of the 5 parties named and not from the fact of service.” *Stelly v.*
Tesla, Inc., No. 25-cv-08933-JSC, 2025 6 WL 3251469, at *1 (N.D.

Cal. Nov. 21, 2025); *Clarence E. Morris, Inc. v. Vitek*, 412 F.2d 1174, 7 1176 (9th Cir. 1969)
(emphasis added) (following *Pullman Co. v. Jenkins*, 305 U.S. 534 (1939)). 8 In fact, the Ninth
Circuit in *Cripps* distinguished *Vitek* because “[t]he danger that plaintiffs will 9 || manipulate the
jurisdiction of federal courts” by trying to “create diversity by naming as a 10 || defendant a party

who is not in fact brought into the lawsuit by service of process” is not present 11 when the court considers what rule to apply to removing parties, who “ha[ve] no control over who 12 || was served.” Cripps, 980 F.2d at 1266 & n.4.

Additionally, 28 U.S.C. § 1441(b)(1), which 5 13 || provides that “defendants sued under fictitious names shall be disregarded” when “determining 14 || whether a civil action is removable on the basis of [diversity] jurisdiction,” does not apply to this 3 15 case because the individual Defendants here have not been sued under fictitious names. a 16 Accordingly, the Court rejects Tesla’s argument that it should not consider the individual 3 17 Defendants’ citizenship.

This deprives the Court of diversity jurisdiction. Because Tesla does not 18 assert any other basis for federal jurisdiction, the Court remands this case to the Superior Court of 19 California for the County of Alameda for lack of jurisdiction.!

The Clerk shall close the file. 20 IT IS SO ORDERED. 21 Dated: December 31, 2025. 22 JON S. TIGAR' 23 nited States District Judge 24 25 ' After Tesla filed its response to the order to show cause, the parties agreed to remand this case 26 || because they “intend to agree to arbitrate this matter pursuant to a pre-dispute arbitration □ agreement, and Plaintiff contends this Court would lack jurisdiction over a future proceeding to 07 confirm or vacate any arbitration award.” ECF No. 15 at 2.

The Court issues this order to make clear that it lacks diversity jurisdiction over the present case, an issue that the parties’ stipulated 2g || request to remand does not address. The Court also notes that the stipulation listed a different Plaintiff’s name in the signature block, id., but it assumes that this was a typographical error.