

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

J.M. v. Bob's Discount Furniture, LLC

J.M. · No. 24-cv-01926-AJB-SBC · Decided March 24, 2025

OPINION

J.M v. Bob's Discount Furniture, LLC

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 J.M. via G.A.L. RACHEL MENDOZA, Case No.: 24-cv-01926-AJB-SBC 12 Plaintiff,
ORDER DENYING MOVANTS’

MOTION TO REMAND

13 v.

14 BOB’S DISCOUNT FURNITURE, LLC; (Doc. No. 28)

ELEMENTS INTERNATIONAL

15 GROUP, LLC; and DOES 1 to 100, 16 inclusive, 17 Defendants.

18 BOB’S DISCOUNT FURNITURE, LLC

19 Third-Party Plaintiff, 20 v. 21

22 ELEMENTS INTERNATIONAL

GROUP, LLC, and ROES 1 to 100, 23 inclusive, 24 Third-Party Defendant. 25

ELEMENTS INTERNATIONAL

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GROUP, LLC,

27 Third-Party Plaintiff, 28 v. 1

RACHEL MENDOZA, ANGEL

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MENDOZA, LINDA THOMAS, and

3 MOES 1 through 50, inclusive, 4 Third-Party Defendants. 5 Presently before the Court is
Plaintiff/Counter-Defendant Rachel Mendoza and 6 Third-Party Defendants Angel Mendoza and
Linda Thomas’ (collectively, “Movants”) 7 motion to remand. (Doc. No. 28.) Defendant/Cross-
Claimant Bob’s Discount Furniture 8 (“Bob’s Discount”) filed an opposition. (Doc. No. 35.) The
Court notes Movants’ reply 9 was due March 19, 2025. However, Movants have yet to file a reply.
Pursuant to Civil 10 Local Rule 7.1.d.1, the Court finds the matter is suitable for determination on
the papers. 11 Accordingly, the Court VACATES the hearing set for Thursday, April 10, 2025, at

2:00 12 p.m. For the reasons stated herein, the Court DENIES Movants' motion. 13

I. BACKGROUND

14 On September 10, 2024, J.M., by and through his guardian ad litem Rachel 15 Mendoza, filed an action against Bob's Discount in the Superior Court of California for 16 the County of San Diego, Case No. 24 CU010669C. (Doc. No. 1-2 at 2.) On October 17, 17 2024, Bob's Discount removed this case on the basis of diversity jurisdiction. (Doc. No. 18 1.) Thereafter, on November 7, 2024, Bob's Discount filed a third-party complaint against 19 Elements International Group ("Elements"), a Texas limited liability company. (Doc. No. 20 6.) On December 19, 2024, Movants filed a First Amended Complaint ("FAC"), adding 21 Elements as a defendant in this case. (Doc. No. 8.) On January 27, 2025, Elements filed a 22 counterclaim/third-party complaint against Movants. (Doc. No. 17.) On February 25, 2025, 23 Movants filed the instant motion to remand. (Doc. No. 28.) This Order follows. 24

II. LEGAL STANDARD

25 As courts of limited jurisdiction, federal courts may hear only those cases for which 26 subject matter jurisdiction has been conferred either by Congress or by the Constitution. 27 See *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377 (1994). Generally, removal of 28 1 a civil action to federal court is proper only if the district court would have original 2 jurisdiction over the matter at the time of removal. 28 U.S.C. § 1441(a). Federal courts 3 have original jurisdiction where an action presents a federal question or there is diversity 4 jurisdiction. 28 U.S.C. §§ 1331, 1332. 5 Courts have diversity jurisdiction over cases where there is complete diversity of 6 parties and the amount "in controversy exceeds the sum or value of \$75,000, exclusive of 7 interest and costs." 28 U.S.C. § 1332(a). A defendant may remove an action to federal court 8 based on diversity jurisdiction "provided that no defendant 'is a citizen of the State in which 9 such action is brought.'" *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 68 (1996) (quoting 28 10 U.S.C. § 1441(b)); see also *Abrego Abrego v. The Dow Chem. Co.*, 443 F.3d 676, 679 (9th

11 Cir. 2006) ("[T]he presence in the action of a single plaintiff from the same State as a single 12 defendant deprives the district court of original diversity jurisdiction over the entire 13 action." (citations omitted)). An individual is a citizen of the state where they are 14 domiciled, meaning the state where the individual resides and intends to remain or to which 15 the individual intends to return. *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th 16 Cir. 2001).

17 District courts must construe the removal statutes strictly against removal and 18 resolve any uncertainty as to removability in favor of remanding the case to state court. 19 *Boggs v. Lewis*, 863 F.2d 662, 663 (9th Cir. 1988). The burden is on the removing party to 20 demonstrate federal subject matter jurisdiction over the case. See *Emrich v. Touche Ross 21 & Co.*, 846 F.2d 1190, 1195 (9th Cir. 1988).

22 III. DISCUSSION

23 Bob's Discount's notice of removal asserts the amount in controversy exceeds 24 \$75,000 and

there is complete diversity between itself and Movants. (See generally Doc. 25 No. 1.) Regarding the latter point, Bob's Discount argues Movants are citizens of California and Bob's Discount is a limited liability company whose members are all citizens of the state of Connecticut. (Id. at 2–3.) In moving to remand, Movants argue complete diversity no longer exists because Elements filed a third-party complaint on 1 January 27, 2025, adding Movants as third-party defendants. (Doc. No. 28 at 1–2.) Movants 2 assert that because they are both plaintiffs and third-party defendants in this case and they 3 are from California, diversity no longer exists. (Id. at 2.) Bob's Discount responds that 28 4 U.S.C. § 1332's complete diversity requirement does not apply between plaintiffs and 5 third-party defendants. (Doc. No. 35 at 3 (citing *Caterpillar*, 519 U.S. at 66 n.1).) 6 A. Amount in Controversy 7 The parties do not dispute the amount in controversy. (See generally Doc. Nos. 1 8 (notice of removal asserting the amount in controversy to exceed \$75,000); 28 (Movants' 9 motion disputing only diversity of citizenship); 33 (Bob's Discount's opposition 10 reasserting that the amount exceeds \$75,000).) Bob's Discount has plausibly alleged that, 11 pursuant to Movants' counsel's letter demanding \$4.5 million in damages, the amount in 12 controversy exceeds \$75,000. (Doc. No. 1 at 3); see *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 89 (2014) (“[A]s specified in § 1446(a), a defendant's notice 14 of removal need include only a plausible allegation that the amount in controversy exceeds 15 the jurisdictional threshold.”). As Movants do not contest, nor does the Court see a reason 16 to question Bob's Discount's allegations, the Court finds Bob's Discount has sufficiently 17 alleged the amount in controversy exceeds the required minimum threshold for diversity 18 jurisdiction. See id. at 87 (“[W]hen a defendant seeks federal-court adjudication, the 19 defendant's amount-in-controversy allegation should be accepted when not contested by 20 the plaintiff or questioned by the court.”). 21 B. Citizenship 22 Movants argue complete diversity no longer exists due to Element's third-party 23 complaint against Movants, who are citizens of California. (Doc. No. 28 at 1–2.) Bob's 24 Discount asserts the complete diversity requirement does not apply between plaintiffs and 25 third-party defendants because, pursuant to Federal Rule of Civil Procedure 14, a third- 26 party defendant has no direct relation to a plaintiff's claims. (Doc. No. 35 at 3–4.) 27 “It is well settled that a grant of jurisdiction over particular subject matter includes 28 the power to adjudicate all matters ancillary to the particular subject matter’ . . . regardless 1 of the absence of diversity of citizenship or of a federal question in the ancillary suit.” U. S. ex rel. *Payne v. United Pac. Ins. Co.*, 472 F.2d 792, 793–94 (9th Cir. 1973) (quoting 3 *Glens Falls Indem. Co. v. U. S. ex rel. Westinghouse Elec. Supply, Co.*, 229 F.2d 370, 373 4 (9th Cir. 1955)). “[A]ncillary means auxiliary, accessorial or subordinate, and [] third- 5 party claims are ancillary if the claims arise out of the subject matter of the original action 6 and involve the same persons and issues” or the same “transaction or occurrence.” Id. at 7 794 (citing *Glens Falls*, 229 F.2d at 374, & *L&E Co. v. U. S. ex rel. Kaiser Gypsum Co.*, 8 351 F.2d 880, 882 (9th Cir. 1965)). 9 For example, in *Caterpillar*, the Supreme Court found that “[n]o dispute ran 10 between” the plaintiff and the third-party defendant, and

thus the defendant's third-party 11 complaint against the third-party defendant "had no bearing on the authority of the federal 12 court to adjudicate the diversity claims Lewis asserted against Caterpillar." 519 U.S. at 66 13 n.1 (citing *Wichita R.R. & Light Co. v. Public Util. Comm'n of Kan.*, 260 U.S. 48, 54 (1922) 14 (federal jurisdiction once acquired on the ground of complete diversity of citizenship is 15 unaffected by the subsequent intervention "of a party whose presence is not essential to a 16 decision of the controversy between the original parties")). The Court went on to state: 17 As elaborated in 3 J. Moore, *Moore's Federal Practice* ¶ 14.26, p. 14–116 (2d ed. 1996) (footnotes omitted): "Once federal subject matter jurisdiction is 18 established over the underlying case between [plaintiff] and [defendant], the 19 jurisdictional propriety of each additional claim is to be assessed individually. Thus, assuming that jurisdiction is based upon diversity of citizenship 20 between [plaintiff] and [defendant], the question concerning impleader is 21 whether there is a jurisdictional basis for the claim by [defendant] against [third-party defendant]. The fact that [plaintiff] and [third-party defendant] 22 may be co-citizens is completely irrelevant. Unless [plaintiff] chooses to 23 amend his complaint to assert a claim against [third-party defendant], [plaintiff] and [third-party defendant] are simply not adverse, and there need 24 be no basis of jurisdiction between them." 25 26 *Id.* 27 Here, because Movants are not adverse to themselves and there is no dispute between 28 Movants and the third-party defendants at issue (again, themselves), Elements' third-party 1 ||}complaint against Movants has no bearing on this Court's authority to adjudicate the 2 || diversity claims Movants assert against Bob's Discount and Elements. Movants cite no 3 ||case to the contrary, and the Court finds none. Thus, the Court holds that ancillary 4 || jurisdiction over the third-party complaint exists in this case.

5 CONCLUSION

6 For the foregoing reasons, the Court DENIES Movants' motion to remand. 7 8 IT IS SO ORDERED. 9 || Dated: March 24, 2025 © 10 Hon, Anthony J.Battaglia 11 United States District Judge 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28