

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

**Paiman Rahbarian and Vera Davydenko v. Allstate Insurance
Company; Allstate Insurance Company of California; and Does 1 to
25, inclusive**

Rahbarian · No. 2:24-cv-02270-TLN-SCR · Decided June 2, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 PAIMAN RAHBARIAN and VERA No. 2:24-cv-02270-TLN-SCR
DAVYDENKO, 12 Plaintiffs, 13 ORDER v. 14 ALLSTATE INSURANCE COMPANY; 15
ALLSTATE INSURANCE COMPANY OF CALIFORNIA; and DOES 1 to 25, 16 inclusive, 17
Defendants. 18 19 This matter is before the Court on Plaintiffs Paiman Rahbarian and Vera
Davydenko’s 20 (collectively, “Plaintiffs”) Motion to Remand.

(ECF No. 4.) Defendants Allstate Insurance 21 Company (“Allstate Insurance”) and Allstate
Insurance Company of California (“AICCA”) 22 (collectively, “Defendants”) filed an opposition.
(ECF No. 10.) Plaintiffs filed a reply. (ECF 23 No. 14.) 24 Also before the Court is AICCA’s
Motion to Dismiss. (ECF No. 8.) Plaintiffs filed an 25 opposition. (ECF No. 11.) AICCA filed a
reply.

(ECF No. 17.) 26 For the reasons set forth below, Plaintiffs’ Motion to Remand is DENIED and
AICCA’s 27 Motion to Dismiss is GRANTED. 28 /// 1 I. FACTUAL AND PROCEDURAL
BACKGROUND 2 Plaintiffs allege they entered into a written contract for renter’s insurance with
Defendants 3 (“the Insurance Policy”). (ECF No. 1-1 ¶ 7.) Plaintiffs contend the Insurance Policy
included 4 coverage for loss of property by theft.

(Id.) On June 23, 2023, property was stolen from 5 Plaintiffs’ moving truck. (Id. ¶ 8.) Plaintiffs
allege they informed Defendants of the theft that 6 same day. (Id.) Defendants opened a claim
regarding the theft but ultimately denied it, and 7 allegedly failed to pay Plaintiffs the reasonable
value of Plaintiffs’ property. (Id. ¶ 9–11.) 8 On June 21, 2024, Plaintiffs filed a Complaint in state
court alleging: (1) breach of 9 contract; (2) breach of the covenant of good faith and fair dealing;
(3) breach of fiduciary duty; 10 (4) breach of the duty of loyalty; (5) negligence; and (6) unfair
competition under California 11 Business and Professions Code § 17200 et seq.

(ECF No. 1-1.) On August 21, 2024, Allstate 12 Insurance removed the action to this Court based
on diversity jurisdiction. (ECF No. 1.) On 13 September 19, 2024, Plaintiffs filed the instant
motion to remand. (ECF No. 4.)

On September 14 27, 2024, AICCA filed the instant motion to dismiss pursuant to Federal Rule of Civil Procedure 15 12(b)(6). (ECF No. 8-1.) The motion to remand and motion to dismiss contain overlapping 16 arguments.

The Court will address arguments from the motion to remand and will not 17 specifically refer to arguments from the motion to dismiss. 18 II. STANDARD OF LAW 19 A civil action brought in state court, over which the district court has original jurisdiction, 20 may be removed by the defendant to federal court in the judicial district and division in which the 21 state court action is pending.

28 U.S.C. § 1441(a). The district court has original jurisdiction 22 over civil actions between citizens of different states in which the alleged damages exceed 23 \$75,000. 28 U.S.C. § 1332(a)(1). The party asserting federal jurisdiction bears the burden of 24 proving diversity. *Lew v. Moss*, 797 F.2d 747, 749 (9th Cir. 1986) (citing *Resnik v. La Paz Guest 25 Ranch*, 289 F.2d 814, 819 (9th Cir.

1961)). Diversity is determined as of the time the complaint 26 is filed and removal effected. *Strotek Corp. v. Air Transp. Ass'n of Am.*, 300 F.3d 1129, 1131 27 (9th Cir. 2002). Removal statutes are to be strictly construed against removal. *Gaus v. Miles, 28 Inc.*, 980 F.2d 564, 566 (9th Cir. 1992). 1 Removal based on diversity requires that the citizenship of each plaintiff be diverse from 2 the citizenship of each defendant (i.e., complete diversity).

Caterpillar Inc. v. Lewis, 519 U.S. 61, 3 68 (1996). For purposes of diversity, a limited liability company (“LLC”) is a citizen of every 4 state in which its “owners/members” are citizens. *Johnson v. Columbia Prop. Anchorage, LP*, 5 437 F.3d 894, 899 (9th Cir. 2006) (explaining that courts are to treat LLCs like partnerships, 6 which have the citizenships of all of their members).

A corporation is a citizen of any state in 7 which it is incorporated and any state in which it maintains its principal place of business. 28 8 U.S.C. § 1332(c)(1). An individual defendant’s citizenship is determined by the state in which 9 they are domiciled. *Weight v. Active Network, Inc.*, 29 F. Supp. 3d 1289, 1292 (S.D. Cal. 2014). 10 The amount in controversy is determined by reference to the complaint itself and includes 11 the amount of damages in dispute, as well as attorney’s fees, if authorized by statute or contract.

12 *Kroske v. U.S. Bank Corp.*, 432 F.3d 976, 980 (9th Cir. 2005). Where the complaint does not 13 pray for damages in a specific amount, the defendant must prove by a preponderance of the 14 evidence that the amount in controversy exceeds \$75,000. *Singer v. State Farm Mut. Auto. Ins. 15 Co.*, 116 F.3d 373, 376 (9th Cir. 1997) (citing *Sanchez v. Monumental Life Ins.*

Co., 102 F.3d 16 398, 404 (9th Cir. 1996)). If the amount is not facially apparent from the complaint, the Court 17 may “require parties to submit summary-judgment-type evidence relevant to the amount in 18 controversy at the time of removal.” *Id.* (citing *Allen v. R & H Oil & Gas Co.*,

63 F.3d 1326, 19 1335–36 (5th Cir. 1995)). 20 III. ANALYSIS 21 Plaintiffs argue this action should be remanded to state court because complete diversity 22 between the parties does not exist.¹ (ECF No. 5 at 4–5.)

Specifically, Plaintiffs contend they are 23 citizens of California as is AICCA, thus defeating diversity of citizenship for the purposes of 24 1 Plaintiffs also argue this action should be remanded because it was never properly 25 removed.

As a general rule, all defendants in the state court action must join in the petition for removal. *United Computer Sys., Inc. v. AT & T Corp.*, 298 F.3d 756, 762 (9th Cir.2002). 26 However, because the Court finds AICCA was fraudulently joined, AICCA need not have joined 27 in the petition for removal. *Emrich v. Touche Ross & Co.*, 846 F.2d 1190, 1193 n. 1 (9th Cir.

1988) (noting that nominal, unknown, fraudulently joined, or improperly served defendants need 28 not join in a petition for removal). 1 federal court jurisdiction. (Id.) In opposition, Defendants argue diversity of citizenship exists 2 because Plaintiffs are residents of California, Allstate Insurance is a citizen of Illinois, and 3 AICCA was fraudulently joined as Plaintiffs’ claims against it fail as a matter of law.

(See 4 generally ECF No. 10.) 5 At the outset, the Court notes the parties do not dispute Allstate Insurance is a citizen of 6 Illinois or that the amount in controversy exceeds \$75,000. As such, the Court only addresses 7 whether AICCA was fraudulently joined. 8 “There are two ways to establish fraudulent joinder: ‘(1) actual fraud in the pleading of 9 jurisdictional facts[;] or (2) inability of the plaintiff to establish a cause of action against the non- 10 diverse party in state court.’” *Grancare, LLC v. Thrower by and through Mills*, 889 F.3d 543, 11 548 (9th Cir.

2018) (quoting *Hunter v. Phillip Morris USA*, 582 F.3d 1039, 1044 (9th Cir. 2009)). 12 “Fraudulent joinder is established the second way if a defendant shows that an ‘individual[] 13 joined in the action cannot be liable on any theory.’” Id. (quoting *Ritchey v. Upjohn Drug Co.*, 14 139 F.3d 1313, 1318 (9th Cir. 1998)). “But ‘if there is a possibility that a state court would find 15 that the complaint states a cause of action against any of the resident defendants, the federal court 16 must find that the joinder was proper and remand the case to the state court.’” Id. (emphasis 17 omitted) (quoting *Hunter*, 582 F.3d at 1046). “A defendant invoking federal court diversity 18 jurisdiction on the basis of fraudulent joinder bears a ‘heavy burden’ since there is a ‘general 19 presumption against [finding] fraudulent joinder.’” Id. (quoting *Hunter*, 582 F.3d at 1046).

To 20 determine whether a non-diverse defendant is a sham defendant, “all disputed questions of fact 21 and all ambiguities in the controlling state law are resolved in the plaintiff’s favor[.]” *Nasrawi v. 22 Buck Consultants, LLC*, 713 F. Supp. 2d 1080, 1084 (E.D. Cal. 2010). Upon this assumption, 23 “[i]f there is a non-fanciful possibility that plaintiff can state a claim under

California law against 24 the non-diverse defendants the court must remand.” Macey v. Allstate Prop. & Cas.

Ins. Co., 220 25 F. Supp. 2d 1116, 1117 (N.D. Cal. 2002). 26 Defendants argue Plaintiffs have no possibility of alleging any claim against AICCA. 27 (ECF No. 10 at 16–17.) In support, Defendants argue as follows: AICCA is not a party to or 28 referenced in the Insurance Policy between Plaintiffs and Allstate Insurance; AICCA is an entity 1 that only exists on paper as it does not conduct any business, and it has no employees or assets; 2 and AICCA is not licensed to issue insurance policies in California and did not issue the 3 Insurance Policy to Plaintiffs.

(Id. at 8–10.) 4 In reply, Plaintiffs argue AICCA’s inclusion as a defendant in the instant matter is not 5 fraudulent. (ECF No. 14 at 11.) Specifically, Plaintiffs contend the following: AICCA was 6 incorporated in the State of California in 2009 and stated in its Articles of Incorporation that 7 “[t]he business of the corporation is to be an insurer”; AICCA is a corporation in good standing 8 and able to transact business in California; the Insurance Policy uses the word “Allstate” without 9 specific reference to Allstate Insurance; and AICCA has two directors and three officers with 10 addresses in Sacramento County.

(Id. at 11–12.) Plaintiffs further argue it is not necessary for 11 AICCA to have been a party to the insurance contract for it to be liable for negligence because 12 agents and others working on behalf of AICCA could have negligently investigated and 13 mishandled Plaintiffs’ insurance claims. (Id. at 13.) 14 The Court finds Defendants have established Plaintiffs cannot assert their breach of 15 contract and bad faith claims against AICCA as AICCA was not a party to the Insurance Policy.

16 See Gruenberg v. Aetna Ins. Co., 9 Cal. 3d 566, 576 (1973) (entities that are not parties to the 17 insurance contract cannot be sued for breach of contract or bad faith); Hatchwell v. Blue Shield of 18 Cal., 198 Cal. App. 3d 1027, 1033 (1988) (“[O]ne who is not a party to the underlying contract 19 may not be held liable for breach of an implied covenant of good faith and fair dealing for as to 20 him no such implied covenant exists.”).

The only contract alleged is the Insurance Policy, which 21 is incorporated by reference into the Complaint. (ECF No. 10-6; ECF 1-1 ¶ 7.) The Insurance 22 Policy states that it is between Plaintiffs and Allstate Insurance. (ECF No. 10-6 at 11.) AICCA is 23 neither listed as a party to the contract nor as an affiliate of Allstate Insurance. (Id. at 10.) 24 Moreover, even though the Complaint does not allege an alter ego theory, Defendants also 25 submitted the declaration of an employee of Allstate Insurance, Glen Davis (“Davis”), Senior 26 Product Consultant for the West Zone.

(ECF No. 10-1 at 2.) In his declaration, Davis affirms 27 AICCA is an inactive corporation that does not have any assets or revenue and has never issued 28 insurance policies. (Id.) Davis further

affirms AICCA has never conducted business and does 1 | not have any employees. Ud.) Additionally, while AICCA has two members of its Board of 2 | Directors, neither is an employee of AICCA. (/d.)

Finally, Davis affirms that AICCA does not 3 | commingle funds or assets with Allstate Insurance. (/d.) Plaintiffs do not dispute these facts. 4 | Accordingly, the Court finds Defendants have established Plaintiffs cannot assert their breach of 5 | contract and bad faith claims against AICCA even on an alter ego theory. 6 The Court also finds Defendants have established Plaintiffs cannot assert their negligence 7 | claim against AICCA.?

AICCA has never conducted business and does not have any employees. 8 | Cd.) Therefore, Plaintiffs' conclusory argument that AICCA could be liable to them for 9 | negligence because agents and others working on behalf of AICCA could have negligently 10 || investigated and mishandled Plaintiffs' claim is underdeveloped and unpersuasive. 11 For these reasons, the Court finds that Defendants have satisfied their burden to show 12 | AICCA was fraudulently joined.

Wilson v. Republic Iron & Steel Co., 257 U.S. 92, 97 (1921) 13 | Goinder was fraudulent where the defendant had "no real connection [to] the controversy" 14 || because the allegations against the defendant were "without any reasonable basis in fact"). 15 Accordingly, Plaintiffs' Motion to Remand is DENIED and Defendants' Motion to 16 | Dismiss AICCA is GRANTED without leave to amend.

17 IV. CONCLUSION 18 Based on the foregoing reasons, the Court DENIES Plaintiffs' Motion to Remand (ECF 19 | No. 4) and GRANTS Allstate Insurance Company of California's Motion to Dismiss without 20 | leave to amend (ECF No. 8). Allstate Insurance Company of California is DISMISSED, and this 21 | case will proceed against Defendant Allstate Insurance Company.

22 IT IS SO ORDERED. 23 | Date: May 30, 2025 7, 24 Troy L. Nunl Chief United States District Judge 26 Allstate Insurance argues Plaintiffs' claims for breach of fiduciary duty, breach of loyalty, and violations of the Business and Professions Code § 17200 fail and provides authority 27 || purporting to support its position. (ECF No. 10 at 18-20.) Plaintiffs neither address or substantively discuss Allstate Insurance's arguments or authority.

As such, the Court declines to 28 | address those claims.