

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

**Caroline R. Homan, Individually, and on Behalf of the Class v.
Colonial Penn Life Insurance Company**

Homan v. Colonial Penn Life Insurance Co. · No. 1:25-cv-00296-JLT-SAB · Decided December 11, 2025

OPINION

Homan

PER CURIAM.

1 2 3 4 5

6 UNITED STATES DISTRICT COURT

7 EASTERN DISTRICT OF CALIFORNIA

8 9 CAROLINE R. HOMAN, Individually, Case No. 1:25-cv-00296-JLT-SAB and on Behalf of
the Class,

10 FINDINGS AND RECOMMENDATIONS

Plaintiff, RECOMMENDING DENYING PLAINTIFF'S 11

MOTION TO REMAND

v. 12 (ECF No. 10)

COLONIAL PENN LIFE INSURANCE

13 COMPANY,

OBJECTIONS DUE WITHIN FOURTEEN

DAYS

14 Defendant. 15

Before the Court is Plaintiff Caroline R. Homan's motion to remand this matter back to 16
California Superior Court, Mariposa County. A hearing was held in this matter on September 3, 17
2025, and the Court allowed for supplemental briefing by the parties. (ECF Nos. 27, 28, 29.) 18
Sarah Bell, Esq., appeared on behalf of Plaintiff. Kathy Huang, Esq., appeared on behalf of 19
Defendant. Based on the papers, the record, and the arguments presented at the hearing and in the
20 supplemental briefs, the Court will recommend denying Plaintiff's motion to remand. 21 I. 22

BACKGROUND

23 This is a putative class action for alleged violations of the California Insurance Code, 24 §§
10113.71 and 10113.72. (ECF No. 1, Exh A, Complaint, ¶¶ 1-15.) Plaintiff is Caroline R. 25
Homan, an individual and beneficiary of a life insurance policy that insured her late husband's 26
life. (Id. at ¶ 11.) Defendant is Colonial Penn Life Insurance Company, a Pennsylvania 27
corporation doing business in California that is licensed to sell life insurance. (Id. at ¶ 12.) 28 1
Plaintiff alleges that Defendant violated the Insurance Code when it terminated the relevant life 2

insurance policy, and Plaintiff asserts that the policy must be restored. (Id. at ¶¶ 1-15.) 3 As relevant here, the California Insurance Code generally require that life insurers 4 provide: (1) a 60-day grace period in the policy contract and in practice, § 10113.71(a); (2) 5 sufficient notice of missed premium and “of pending lapse and termination” prior to the effective 6 termination date, § 10113.71(b); and (3) an annual opportunity to designate a third party to 7 receive notice of a potential termination of benefits for nonpayment of a premium, § 10113.72. 8 Plaintiff observes that California Supreme Court has characterized these statutes as: 9 provide[ing] consumer safeguards from which people who have purchased life insurance coverage, especially seniors, would 10 benefit. Under existing law, individuals can easily lose the critical protection of life insurance if a single premium is accidentally 11 missed (even if they have been paying premiums on time for many years) . . . Therefore, the protections provided by [these statutes] 12 are intended to make sure policyholders have sufficient warning that their premium may lapse due to nonpayment. 13 (ECF No. 10-1, p. 3, quoting *McHugh v. Protective Life Ins. Co.*, 12 Cal. 5th 213, 241, 494 P.3d 14 24 (Cal. 2021).) 15 Plaintiff essentially alleges violations of these Insurance Code statutes when Defendant 16 terminated the policy, originally purchased by Plaintiff’s now late husband. (ECF No. 1, Exh A, 17 Complaint, ¶¶ 36-47.) Indeed, following the death of her husband, Plaintiff contacted Defendant 18 to file a claim but was informed that the policy had been terminated for nonpayment only months 19 earlier with no 60-day grace period, no notice of pending lapse or termination, and no annual 20 opportunity to designate a third party to receive notice of potential termination of benefits for 21 nonpayment of a premium. (Id.) Defendant notified Plaintiff that would not pay her claim. (Id. 22 at ¶ 45.) 23 On February 4, 2025, Plaintiff commenced this action in California Superior Court, 24 Mariposa County, bringing one cause of action: violation of California’s Unfair Competition 25 Law, Cal. Bus. & Prof. Code § 17200. (ECF No. 1, Exh. A., Complaint, ¶¶ 1, 58-70.) Plaintiff 26 explicitly prays for only class certification, injunctive relief, restitution, and attorney’s fees. (Id. 27 at p. 31.) On March 10, 2025, Defendant removed the action to this Court. (ECF No. 1.) On 28

1 April 9, 2025, Plaintiff moved for remand, and the assigned District Judge referred the motion to 2 the undersigned for the preparation of findings and recommendations. (ECF Nos. 10, 15.) The 3 motion has been fully briefed, (ECF Nos. 22, 23), and the Court held a hearing on September 3, 4 2025. (ECF No. 25.) During the hearing, Plaintiff requested the opportunity to brief whether 5 recent Ninth Circuit precedent would still allow for remand in this case. The Court granted the 6 request, allowing supplemental briefing from Plaintiff (ECF No. 28), as well as a response from 7 Defendant. (ECF No. 29.) 8 II.

9 LEGAL STANDARDS

10 A defendant may remove a matter to federal court if the district court would have original 11 jurisdiction—i.e., federal question jurisdiction, diversity jurisdiction, or jurisdiction pursuant to 12 the Class Action Fairness Act of 2005. 28 U.S.C. § 1441(a); 28 U.S.C. § 1453; *Caterpillar, Inc.* 13 v. *Williams*, 482 U.S. 386, 392 (1987). As relevant here, “CAFA creates subject matter 14

jurisdiction in federal court for class actions where (1) there is minimal diversity; (2) the amount in controversy exceeds \$5 million; and (3) there are more than 100 members in the proposed class.” Ruiz v. Bradford Exchange, Ltd., 153 F.4th 907, 909 (9th Cir. 2025), citing 28 U.S.C. § 171332(d). 18 ““It is to be presumed that a cause lies outside [the] limited jurisdiction [of the federal 19 courts] and the burden of establishing the contrary rests upon the party asserting jurisdiction.”” 20 Hunter v. Philip Morris, USA, 582 F.3d 1039, 1042 (9th Cir. 2009), quoting Abrego Abrego v. 21 Dow Chem. Co., 443 F.3d 676, 684 (9th Cir.2006) (alterations in original). The ““strong 22 presumption against removal jurisdiction means that the defendant always has the burden of 23 establishing that removal is proper,’ and that the court resolves all ambiguity in favor of remand 24 to state court.” Id., quoting Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir.1992) (per curiam) 25 (internal quotation marks omitted). Should a party wish to challenge jurisdiction following 26 removal, a motion to remand is the proper procedure to challenge a removal based on lack of 27 jurisdiction. 28 U.S.C. § 1447(c). 28 / / / 1 III.

2 DISCUSSION

3 Following the recent Ninth Circuit opinion Ruiz v. Bradford Exchange, Ltd., 153 F.4th 4 907, the parties agree that the only remaining arguments boil down to the scope of the holding in 5 Ruiz. Plaintiff essentially argues that Ruiz is limited insofar as Ruiz did not explicitly hold that a 6 district court must retain equitable jurisdiction where a defendant waives an adequate-remedy-at- 7 law defense and that the equitable relief sought in Ruiz was equitable restitution. (ECF No. 28, 8 pp. 7-11.) Even if the Court were to find that Ruiz fully controls here, Plaintiff contends that the 9 Court could and should decline to accept Defendant’s waiver. (Id. at p. 12-15.) Plaintiff then 10 argues that the Court does not have subject-matter jurisdiction over the injunctive relief portion of 11 Plaintiff’s UCL claim. (Id. at 15-20.) Throughout, Plaintiff also asserts that policies of judicial 12 economy, comity, and fairness all support remand. (See id. at pp. 20-21.) 13 In opposition, Defendant argues that Ruiz was intended to and does apply to all equitable 14 remedies, not solely to cases involving only equitable restitution. (ECF No. 29, pp. 6-7.) 15 Defendant then takes issue with Plaintiff’s suggestion that the Court can and should decline to 16 accept Defendant’s waiver. (Id. at pp. 7-11.) Next, Defendant asserts that injunctive relief is a 17 remedy and not a cause of action, and therefore, Plaintiff’s argument regarding subject-matter 18 jurisdiction, on a motion to remand, is wanting. (Id. at pp. 11-18.) Last, Defendant contends that 19 the Court cannot remand injunctive relief portion of Plaintiff’s UCL claim under California’s 20 primary rights doctrine. (Id. at p. 19-20.) 21 Notwithstanding Plaintiff’s novel legal arguments, the Court finds that Ruiz applies to 22 cases seeking only equitable relief, not merely a subset of cases seeking only equitable restitution. 23 Furthermore, the Court is not persuaded that it should decline to accept Defendant’s waiver. 24 Regarding subject-matter jurisdiction for injunctive relief, Plaintiff has not persuaded the Court 25 that remand is appropriate in this case. 26 Because the resolution of this motion depends on the scope and application of Ruiz, the 27 Court begins with a summary of that case. 28 / / / 1 A. Ruiz v. The Bradford Exchange, Ltd. 2 In May 2020, the plaintiff in Ruiz

purchased a snow-globe collectable through the 3 defendant's website. 153 F.4th at 909. Though the plaintiff had made what he thought was a 4 one-time purchase, he was subsequently charged eleven more times for what appeared to be a 5 subscription service; the plaintiff alleged he had never signed up for such a service. *Id.* The 6 plaintiff then filed a putative class-action complaint in California state court, bringing claims 7 under California's False Advertising Law and Unfair Competition Law. *Id.* As to relief, the 8 plaintiff sought only equitable restitution though he conceded that he could have sought damages, 9 a legal remedy, under California's Consumer Legal Remedies Act. *Id.* 10 The defendant removed the case to federal court under CAFA. *Id.* And while there was 11 no dispute that the district court had subject-matter jurisdiction over the matter under CAFA, the 12 plaintiff nonetheless moved to remand, noting that while California law provided him a legal 13 remedy, he had sought only an equitable remedy. *Id.* at 909-10. Because the plaintiff did not 14 plead that he lacked an adequate remedy of law, the plaintiff reasoned that the district court 15 lacked equitable jurisdiction. *Id.* at 910. In opposition, the defendant argued that the district 16 court lacked a legal mechanism, statutory or common-law, that would allow it to remand the 17 matter to state court. *Id.* In the alternative, should the district have the power to remand, the 18 defendant argued that it should be given an opportunity to waive the adequate-remedy-at-law 19 issue in order to keep the case in federal court. *Id.* The district court concluded that its power to 20 remand a case to state court extended to a lack of equitable jurisdiction, and it ruled that the 21 defendant could not waive its adequate-remedy-at-law defense. *Id.* Thus, the district court 22 granted the plaintiff's motion to remand. 23 The Ninth Circuit reversed, vacated, and remanded. *Id.* at 918. The Court began with a 24 survey of the doctrine of equitable jurisdiction, observing that soon after the Supreme Court's 25 holding in *Erie Railroad Co. v. Tompkins*, 304 U.S. 64 (1938), the Supreme Court clarified that, 26 in cases involving diversity jurisdiction, "[e]quitable relief in a federal court" must still "be within 27 the traditional scope of equity as historically evolved in the English Court of Chancery." *Id.* at 28 910, quoting *Guaranty Trust Co. of N.Y.C. v. York*, 326 U.S. 99, 105 (1945). Indeed, the 1 Supreme Court continued, stating that "a plain, adequate and complete remedy at law must be 2 wanting" for a federal court to exercise its equity powers, even in cases where "a State may 3 authorize its courts to give equitable relief unhampered" by a similar restriction. *Id.*, quoting 4 *York*, 326 U.S. at 105-06. In other words, the "limitation on the equitable powers of federal 5 courts therefore applie[s] in diversity cases as well." *Id.*, citing *York*, 326 U.S. at 106. 6 The Ruiz Court then discussed the Circuit's recent cases involving equitable jurisdiction 7 and distilled 8 a few key conclusions that are relevant here: federal courts in diversity cases apply federal principles of equitable jurisdiction; a 9 plaintiff who fails to allege the lack of an adequate remedy at law cannot utilize a federal court's equitable jurisdiction; equitable 10 jurisdiction is not a matter of subject matter jurisdiction; and when a case is initially filed in federal court and the defendant 11 demonstrates that equitable jurisdiction is lacking, a court must dismiss the case, but without prejudice. 12 *Id.* at 912. 13 The Court then identified the two questions presented in the case before it, a case where a

14 plaintiff moved to remand for lack of equitable jurisdiction on a theory that the plaintiff had not
15 alleged he had lacked an adequate remedy of law: whether a district court has the authority to
16 remand the case to state court, and whether the district court erred by not allowing a defendant
to 17 waive its adequate-remedy-at-law defense. *Id.* at 912, 915. 18 The Ninth Circuit first held
that “when a case is removed from state court and the district 19 court concludes it lacks equitable
jurisdiction, the court has the authority to remand the case to 20 state court,” and relatedly, [t]he
court is not required to dismiss the case.” *Id.* 913. In grounding 21 its holding, the Ninth Circuit
observed that the “Supreme Court long ago indicated that remand to 22 state court was a
permissible response to a lack of equitable jurisdiction.” *Id.* (discussing *Cates v. 23 Allen*, 149
U.S. 451 (1893), *Twist v. Prairie Oil & Gas Co.*, 274 U.S. 684 (1927), *Quackenbush v. 24 Allstate*
Ins. Co., 517 U.S. 706 (1996)). Moreover, the Ninth Circuit reasoned that “[a]llowing 25 district
courts to remand for lack of equitable jurisdiction is consistent with other contexts in 26 which
remand has been permitted,” thus avoiding “the perpetual removal-dismissal loops that 27 might
otherwise occur if district courts were limited to dismissing an action without prejudice.” 28

1 *Id.* 913-14, citing *Quackenbush*, 517 U.S. at 721 (abstention doctrines); *Kamm v. ITEX Corp.*,
2 568 F.3d 752, 755 (9th Cir. 2009) (forum selection clauses). 3 The Court then turned to the issue
of whether the district court erred by not allowing the 4 defendant the opportunity to “waive the
adequate-remedy-at-law impediment” and held that this 5 issue “is waivable.” *Id.* at 915. The Ruiz
Court began by outlining Supreme Court precedent that 6 demonstrated that “equitable
jurisdiction is waivable.” *Id.*, citing *Pusey & Jones Co. v. Hanssen*, 7 261 U.S. 491 (1923); *Am.*
Mills Co. v. Am. Sur. Co. of N.Y., 260 U.S. 360 (1922); *Twist*, 274 8 U.S. at 691. The Court
discussed that this conclusion “follows from first principles.” *Id.* at 916. 9 Though subject-matter
jurisdiction “can never be forfeited or waived, . . . equity jurisdiction does 10 not relate to the
power of the court to hear and determine a controversy.” *Id.*, quoting *Arbaugh v. 11 Y&H Corp.*,
546 U.S. 500, 514 (2006) and *Yuba Consol. Gold Fields v. Kilkeary*, 206 F.2d 884, 12 887 (9th
Cir. 1953). And therefore, [e]quitable jurisdiction is distinct from subject matter 13 jurisdiction.”
Id., quoting *Guzman v. Polaris Indus. Inc.*, 49 F.4th 1308, 1314 (9th Cir. 2022). 14 In further
support of its holding that the adequate-remedy-at-law objection is waivable, the 15 Ninth Circuit
reiterated that equitable jurisdiction is comparable to the issues of abstention and 16 forum non
conveniens, which are both waivable and/or discretionary. *Id.* at 916-17. The Court 17 then
observed that the label “jurisdiction” in “equitable jurisdiction” can a bit of a misnomer if 18
compared to subject-matter jurisdiction when, in reality, it is more similar to the concept of 19
“personal jurisdiction,” which has long been understood to be waivable. *Id.* at 917. 20 The Ruiz
Court further observed that allowing a defendant to waive the adequate-remedy- 21 at-issue fit
into the broader rationale for the federal doctrine of equitable jurisdiction, “namely, 22 the
protection of the right to a jury.” *Id.* Though states may have different conceptions of legal 23 and
equitable remedies available to parties in state court, this at times abuts the Seventh 24
Amendment’s right to a jury trial when brought into federal courts. *Id.* That said, the federal 25

civil jury trial right may be waived, and thus, the Ninth Circuit stated that “[i]t would therefore be counterintuitive if the adequate-remedy-at-law objection protecting the waivable jury-trial right could not itself be waived.” *Id.* Thus, the “upshot” of the Ruiz decision is that where “a plaintiff files a lawsuit in state court seeking only equitable relief and the case is properly removed to federal court, a defendant can defeat remand on equitable jurisdiction grounds by waiving the adequate-remedy-at-law issue.” *Id.* at 918. B. The Scope of the Holding in Ruiz Plaintiff’s lead argument is that Ruiz is distinguishable from the present case. (ECF No. 6 28, p. 9-12.) To start, Plaintiff argues that Ruiz dealt with case involving equitable restitution, and therefore, “Ruiz does not speak to whether a defendant can defeat remand in cases where there are multiple causes of action or where a plaintiff is seeking relief other than or in addition to restitution, particularly relief the federal courts do not have subject matter jurisdiction to grant.” (*Id.* at p 10.) Plaintiff then makes an argument regarding the precedent Ruiz relied upon, essentially arguing that the instant case is different because Plaintiff here does not consent to being in federal court. (*Id.* at pp. 10-11.) The Court is not persuaded that Ruiz is so limited. While in Ruiz the plaintiff sought only equitable restitution, the holdings in Ruiz can hardly be read to be cabined to that theory of equitable relief. If the Ninth Circuit had believed that this were so, it would have said so. In any event, the Ruiz Court’s entire analysis was regarding whether equitable jurisdiction, as a whole, was waivable, observing that the Supreme Court had long ago held that “equitable jurisdiction is waivable.” 153 F.4th at 915, citing *Pusey & Jones Co.*, 261 U.S. 491 (1923); *Am. Mills Co.*, 260 U.S. 360 (1922); *Twist*, 274 U.S. at 691. Moreover, the Court’s discussion that this conclusion logically follows from first principles in no way can be read to be limited to equitable restitution. Indeed, it would make little sense to not apply Ruiz to all claims within equitable jurisdiction given the Court’s observation of a party’s ability to waive their Seventh Amendment right to jury trial supported that a defendant could waive the adequate-remedy-at-law issue. Finally, Plaintiff has not seriously contended with the Ninth Circuit’s own described “upshot” of Ruiz: “a plaintiff files a lawsuit in state court seeking only equitable relief and the case is properly removed to federal court, a defendant can defeat remand on equitable jurisdiction grounds by waiving the adequate-remedy-at-law issue.” *Id.* at 918. Therefore, Plaintiff has not offered a persuasive argument that Ruiz is limited to cases involving equitable restitution. Plaintiff’s other argument is that the precedent undergirding Ruiz involved cases where waiver of equitable jurisdiction was found over a defendant’s objection. Plaintiff attempts to suggest that where, as here, a plaintiff objects or does not consent to equitable jurisdiction, that this should change the outcome. Yet, Ruiz itself directly undermines that position. The plaintiff in Ruiz did not consent to being in federal court and indeed moved to remand. *Id.* at 909-10. If Plaintiff’s argument held merit, the Ninth Circuit would have addressed it squarely in Ruiz. The Court finds that the holdings of Ruiz apply to equitable jurisdiction generally, and therefore, Ruiz controls in this case. C. Defendant’s Waiver of Adequate-Remedy-at-Law Defense Plaintiff next argues that notwithstanding

Defendant's unambiguous waiver of its adequate-remedy-at-law defense (see ECF No. 26), the Court is not "obligated to accept that waiver and decline to remand." (ECF No. 28, p. 12.) In support, Plaintiff highlights that she is not a consenting party to the equitable jurisdiction of the Court. (Id.) Plaintiff then makes a separate argument that the Court should reject Defendant's waiver here. (Id. at pp. 12-14.) Finally, Plaintiff argues that by not declining to accept Defendant's waiver, Plaintiff's "injunctive relief claim" cannot be heard by any court. (Id. at p. 14.) The Court is not persuaded. Going back to the legal standard on a motion to remand, the Court reiterates that "the defendant always has the burden of establishing that removal is proper." *Hunter*, 582 F.3d at 1042. It is undisputed that the Court has subject-matter jurisdiction over Plaintiff's UCL claim pursuant to CAFA. As relevant here, by filing a waiver of an adequate-remedy-at-law defense, the Court finds from the outset that Defendant has met its burden of establishing that removal is proper, and "the case may then proceed in federal court in the normal course." See *Ruiz*, 153 F.4th 918. With this in mind, the Court addresses Plaintiff's arguments. Plaintiff's first argument regarding her lack of consent of being in a federal forum is of no moment. Motions to remand following removal are part of the "bread-and-butter docket" of this Court, the resolution of which always carries the reality of keeping a non-consenting plaintiff in federal court. Moreover, the Court finds that any concern in this case is tempered by the Ninth Circuit's observation in *Ruiz* that "it remains true that a 'plaintiff is the master of his complaint.'" 153 F.4th at 914, quoting *Newtok Vill. v. Patrick*, 21 F.4th 608, 616 (9th Cir. 2021). Plaintiff of course remains the master of her complaint, which she acknowledges in her briefing—though, this observation now appears to cut differently following *Ruiz*. Plaintiff's next argument is complex, and the Court addresses it in the way it views is the most logical. First, Plaintiff argues that the underlying reasoning of *Ruiz* would allow for the Court to have discretion in whether to accept or reject Defendants' waiver of its adequate-remedy-at-law defense. (ECF No. 28, pp. 13-15.) Second, relying on principles of federalism and comity, Plaintiff argues that the Court should elect to reject Defendants' waiver here. (Id. at pp. 12-13.) Even assuming the Court has discretion in accepting or rejecting Defendants' waiver, the Court is not persuaded that rejecting Defendants' waiver here is appropriate. From the outset, the Court does not disagree with Plaintiff that likely, based on the underlying logic of *Ruiz*, federal district courts have discretion in whether to accept or reject a defendant's waiver of an adequate-remedy-at-law. In particular, the *Ruiz* Court observed that "[t]reating the adequate-remedy-at-law objection as waivable would also align equitable jurisdiction with abstention and forum non conveniens, two doctrines we have already said are comparable." 153 F.4th at 916. And as Plaintiff notes, there are cases where notwithstanding a defendant's waiver of abstention, a court may nonetheless reach the merits of abstention sua sponte or unpreserved on appeal. See, e.g., *Guillemard-Ginorio v. Contreras-Gomez*, 585 F.3d 19 508, 517-18 (1st Cir. 2009). That said, even assuming without deciding that a federal district court has discretion in whether to accept or reject a defendant's adequate-remedy-at-law waiver,

Plaintiff's argument to 22 reject Defendant's waiver here fails to persuade. Plaintiff begins by contending that a federal 23 court should "abstain from hearing a case where principles of federalism and comity are at issue 24 to ensure state courts are given the opportunity to resolve matters of significant state interest 25 without undue interference from federal courts." (ECF No. 28, p. 13.) Here, Plaintiff asserts that 26 "Defendant's waiver is an attempt to keep an issue of important state interest involving violation 27 of state law out of state court." (Id.) Yet, as Defendant observes, Plaintiff's logic would 28 generally upset diversity jurisdiction because if a violation of state law is an "important state 1 interest," then a federal court would almost always have to decline to hear a case in diversity in 2 similar circumstances. (ECF No. 29, p. 9.) In other words, Plaintiff's hardline position appears 3 to be in contravention of 28 U.S.C. § 1332 ("The district courts shall have original jurisdiction of 4 all civil actions where the matter in controversy exceeds the sum or value of \$75,000") 5 (emphasis added). 6 Not unlike the principles of involving the determination of whether to decline 7 supplemental jurisdiction, Plaintiff then continues, arguing that the Court should decline to accept 8 Defendant's waiver "based on the interest of comity, federalism, justice, judicial economy, and a 9 concern for burden on the federal court." (ECF No. 28, pp. 13-14.) Yet, Plaintiff does not 10 expand on this argument, and therefore, the Court finds it to be analytically insufficient to 11 persuade. Moreover, even taking these factors on their own terms, the Court is doubtful whether 12 any of these would mandate that the Court essentially decline jurisdiction over Plaintiff's claim. 13 To that point, Defendant highlights that "numerous federal courts have already adjudicated 14 identical claims predicated on the same state law, belying the notion that federal courts should 15 abstain from hearing such disputes." (ECF No. 29, p. 9), citing *Siino v. Foresters Life Ins. & 16 Annuity Co.*, 340 F.R.D. 157 (N.D. Cal. 2022); *Pitt v. Metro. Tower Life Ins. Co.*, 675 F. Supp. 17 3d 1073 (S.D. Cal. 2023); *Kelley v. Colonial Penn Life Ins. Co.*, No. 2:20-cv03348-FLA (Ex), 18 2025 U.S. Dist. LEXIS 87524 (C.D. Cal. May 6, 2025); *Fox v. Genworth Life & Annuity Ins. 19 Co.*, No. 2:24-cv-01001-WBS-CKD, at *5 (Aug. 19, 2025). 20 Rounding the bend, Plaintiff contends that "under California law anyone can waive a right 21 intended for its own benefit, but a law established for a public reason cannot be contravened by a 22 private agreement." (ECF No. 28, p. 14.) Yet, as Defendant notes, Plaintiff does not point to any 23 "law established for a public reason" that is contravened by a "private agreement," (ECF No. 29, 24 p. 11), nor is this apparent to the Court. Furthermore, Plaintiff's precedent here becomes a 25 stretch. For example, Plaintiff cites to *People v. Dominguez*, 256 Cal. App. 2d 623 (Ct. App. 26 1967), a criminal case discussing the waiver of right to challenge a condition of probation even 27 though the defendant accepted the benefit of probation. *Id.* at 629. Beyond citing to Cal. Civ. 28 Code § 3513, the Court finds this case to be unhelpful to the case at bar. 1 The Court has considered Plaintiff other cited precedent in this section and finds it either 2 inapposite or unpersuasive. 3 Based on the foregoing, the Court will not recommend that the District Judge decline to 4 accept Defendant's waiver of its adequate-remedy-at-law defense. 5 D. Subject-Matter Jurisdiction Over Injunctive Relief 6 Plaintiff argues that because she seeks

injunctive relief, this is even more of a reason for 7 the Court to decline to accept Defendant's waiver. (ECF No. 28, p. 15.) Plaintiff observes that 8 her "policy has already been lapsed and cannot be lapsed again, she does not have Article III 9 standing to bring her injunctive relief claim. As such, this Court does not have subject matter 10 jurisdiction over that claim." (Id.) Thus, Plaintiff argues that remand is required because state 11 courts are not bound by the constraints of Article III. (Id.) 12 Plaintiff has offered two cases in support of this argument, one on a motion to dismiss 13 posture, and the other on a motion for summary judgment posture. Of course, on a motion to 14 dismiss a court is tasked with determining whether a complaint fails to state a claim, and on 15 summary judgment a court determines whether there is no genuine dispute as to any material fact 16 and whether a party is entitled to judgment as a matter of law. Meanwhile, on a motion to 17 remand, "[t]he threshold requirement for removal under 28 U.S.C. § 1441 is a finding that the 18 complaint contains a cause of action that is within the original jurisdiction of the district court." 19 *Hunter v. Philip Morris USA*, 582 F.3d 1039, 1042 (9th Cir. 2009), quoting *Ansley v. Ameriquet 20 Mortgage Co.*, 340 F.3d 858, 861 (9th Cir.2003). Thus, the inquiries a court makes, as well as 21 any presumptions, are fundamentally different on a motion to dismiss, motion for summary 22 judgment, and a motion to remand. Therefore, the import of Plaintiff's caselaw is tenuous, but in 23 any event, with the foregoing in mind, the Court addresses the caselaw. 24 In *Russell v. Kohl's Department Stores, Inc.*, the defendant allegedly employed a 25 strikethrough advertising scheme to induce consumers into purchasing a product that was not in 26 actuality a discounted item. No. ED CV 15-1143 RGK (SPx), 2015 WL 12781206, at *1 (C.D. 27 Cal. Oct. 6, 2015). The plaintiffs commenced a putative class action, bringing claims under the 28 UCL and FAL. Id. Defendant moved to dismiss. Id. As relevant here, having determined that 1 the plaintiffs had stated a claim for restitution, the court turned to whether the plaintiffs had 2 standing for injunctive relief. Id. The Russell court observed that "[a] plaintiff seeking to obtain 3 injunctive relief must establish that he or she is realistically threatened by a repetition of the 4 violation in order to establish that the relief sought would redress the alleged injuries." Id., citing 5 *Gest v. Bradbury*, 443 F.3d 1177, 1181 (9th Cir. 2006). Russell predated the Ninth Circuit's 6 seminal case *Davidson v. Kimerly-Clark Corporation*, 889 F.3d 956 (9th Cir. 2018) (discussing 7 the requirements for Article III standing for diversity cases involving injunctive relief and 8 California's consumer protection laws), and thus, Russell continued with an analysis of what in 9 its view led to denying the defendant's motion to dismiss as to the plaintiff's claim for injunctive 10 relief. Id. at *6. Ultimately, the Court finds Russell to not be helpful. Though the court 11 mentioned the injury-in-fact component for Article III standing for injunctive relief, Russell does 12 not provide much more than that. Moreover, the Court observes that Plaintiff did not cite to or 13 discuss Davidson in this section, the key Ninth Circuit case in this niche area of the law. 14 Therefore, Russell is not persuasive. 15 Plaintiff also relies on a case from the Ninth Circuit. In *Polo v. Innovations International, 16 LLC*, the plaintiff on appeal did not dispute that she lacked Article III standing for any of her 17 claims, following such a determination from the district court

on summary judgment, but she argued that the district court should have remanded the case to state court as opposed to dismissing the action. 833 F.3d 1193, 1195 (9th Cir. 2016). The Ninth Circuit observed that, “[i]n an ordinary removal case, ‘[i]f at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded.’” Id. at 1196, quoting 28 U.S.C. § 1447(c). The Court rejected the defendant’s argument that § 1447(c) did not apply and thus reversed the district court insofar as dismissing the action as opposed to remanding. Id. at 1196-97. Plaintiff selectively picks language that when a court determines it lacks subject-matter jurisdiction, “[r]emand is the correct remedy because a failure of federal subject-matter jurisdiction means only that the federal courts have no power to adjudicate the matter. State courts are not bound by the constraints of Article III.” Id. at 1196. However, it was undisputed that in *Polo* the plaintiff did not have Article III standing for any of her claims. Here, it is undisputed that the Court has subject-matter jurisdiction over Plaintiff’s UCL claim via CAFA. Thus, the *Polo* appears to be distinguishable on that point alone. On the other hand, Defendant begins by observing that the issue of whether Plaintiff’s policy had lapsed is a factual issue that has not yet been determined by the Court. Defendant then argues that Plaintiff’s argument here fails for two reasons. First, Defendant notes that it is undisputed that the Court has original jurisdiction over Plaintiff’s claim under CAFA. “That Plaintiff may not have standing to seek an injunction for some portion of the putative class as a remedy—an issue that will be decided later in the case—does not change the Court’s jurisdiction under CAFA to decide this case.” (ECF No. 29, p. 12.) Second, Defendant argues that Plaintiff’s UCL claim is the claim in which the Court has jurisdiction over and that injunctive relief is remedy where such relief is appropriate. (Id.) Indeed, Defendant cites to caselaw that discusses that “[u]nder both California and federal law, injunctive relief is a remedy, not a cause of action.” *Brown v. Stroud*, No. CV 08-2348 VRW, 2011 WL 13312050, *5 (N.D. Cal. Jan. 28, 2011) (collecting cases); see *Cox Communications PCS, LP v. City of San Marcos*, 204 F. Supp. 2d 151272, 1283 (S.D. Cal. 2002). The Court agrees with Defendant on all points. The Court finds Defendant’s offered precedent, *Lee v. Am. Nat’l Ins. Co.*, to be persuasive. 260 F.3d 997 (9th Cir. 2001). In *Lee*, the Ninth Circuit was presented with the question of “whether, in a diversity action removed from state court, the entire case must be remanded if the plaintiff lacks Article III standing as to one of several defendants.” Id. at 999. In coming to its conclusion that such a case need not be remanded, the Court discussed other precedent where a plaintiff had brought a case with some claims there were barred by the Eleventh Amendment. Id. at 1003, discussing *Kruse v. State of Hawaii*, 68 F.3d 331 (9th Cir. 23 1995). The *Lee* Court observed that in *Kruse* the Ninth Circuit had “held that the Eleventh Amendment bar to deciding some of the plaintiff’s claims had no bearing on the district court’s original jurisdiction over her case as a whole.” Id. *Lee* went further, reasoning that “[n]othing in our decision in *Kruse* hinged on the nature of Eleventh Amendment immunity as opposed to any other constitutional limit on federal jurisdiction. Rather, we agreed with the Sixth Circuit’s approach that ‘a jurisdictional bar

against particular claims, and not entire cases . . . should not 1 deprive the district court of its otherwise proper jurisdiction over the action.” Id., quoting Kruse, 2 68 F.3d at 334. Thus, “the presence of at least some claims over which the district court has 3 original jurisdiction is sufficient to allow removal of an entire case, even if others of the claims 4 alleged are beyond the district court’s power to decide.” Id. at 1002-03. Here, the Court has 5 subject-matter jurisdiction, pursuant to CAFA, see Ibarra v. Mannheim Invs., Inc., 775 F.3d 1193, 6 1195 (9th Cir. 2015), to preside over Plaintiff’s UCL claim—the only claim. And the reasoning 7 of Lee supports the conclusion that simply because Plaintiff may not have standing to pursue 8 injunctive relief does not disqualify the Court from otherwise exercising its jurisdiction over the 9 UCL claim. See Chuang v. Dr Pepper Snapple Group, Inc., No. CV 17-1875-MWF(MRWx), 10 2017 WL 2463951, at *2 (C.D. Cal. June 7, 2017) (applying Lee in a substantially similar 11 context). 12 Therefore, the Court declines to follow Plaintiff’s suggestion that the Court should reject 13 Defendant’s waiver because she may not have Article III standing for injunctive relief. 14 The Court also declines Plaintiff’s offer that the Court remand only that portion for 15 equitable relief of Plaintiff’s UCL claim to state court. (ECF No. 28, p. 16.)1 Plaintiff overstates 16 her lead precedent on this issue. In Reyes v. Checksmart Financial, LLC, the plaintiff brought 17 claims under California’s Deferred Deposit Transactions Law (“DDTL”), as well as “meal and 18 rest break and constructive discharge claims.” 701 Fed. Appx. 655, 656 (9th Cir. 2017) (mem). 19 The Ninth Circuit, in an unpublished opinion, affirmed the district court’s dismissal of the 20 plaintiff’s DDTL claim and likewise affirmed the district court’s decision to dismiss and not 21 remand because the plaintiff had Article III standing. Id. at 656-57. The Court also affirmed the 22 district court’s determination that the plaintiff had failed to offer any evidence that the defendant 23 did not provide her with meal and rest breaks or constructively discharged her. Id. at 657-58. 24 Plaintiff directs the Court to the concurrence in part and dissent in part, where Judge 25 Bencivengo recounted the Lee opinion, quoting that “[i]n some cases, a plaintiff might forfeit an 26 otherwise viable state-law claim because that claim was part of a removed diversity case which 27 1 Plaintiff waffles on this request, sometimes seemingly requesting the remand of the injunctive remedy or later doubling down on her request for total remand. In an effort for clarity and completeness, the Court addresses 28 Plaintiff’s argument as if she also seeks partial remand of her UCL claim. 1 was subsequently determined to be beyond the federal court's power to decide, a result which 2 might militate in favor of remanding, rather than dismissing, nonjusticiable state-law claims.” Id. 3 at 660 (Bencivengo, J., concurring in part, dissenting in part), quoting Lee, 260 F.3d at 1006-07. 4 Yet, this quotation gets Plaintiff nowhere because here Plaintiff’s UCL claim here is justiciable 5 pursuant to CAFA. Plaintiff’s other citation in Reyes to the dissenting part of Judge 6 Bencivengo’s opinion and therefore carries no precedent. (See ECF No. 28, p. 16.) 7 Plaintiff’s argument for partial remand then continues with the assumption that her 8 injunctive relief must be remanded. For example, Plaintiff asserts that if the Court is concerned 9 about claim splitting, it should remand the UCL claim in its entirety. Plaintiff then

delves into the 10 legal standard and principles for claim splitting, which the Court need not address given that 11 Plaintiff has not demonstrated that the injunctive relief portion of her UCL must be remanded. 12 Plaintiff's final argument for partial remand acknowledges that she brings only one claim, 13 a UCL claim. (ECF No. 28, p. 18.) For that claim, she seeks at least two equitable remedies, 14 restitution and injunctive relief. (Id.) Plaintiff again implores that while in federal court Plaintiff 15 may not have Article III standing to pursue injunctive relief, in state court, she would have 16 standing to pursue injunctive relief. Plaintiff states that it would be fundamentally unfair for 17 Defendant to be able to remove this action and sever that portion of relief from the UCL claim. 18 However, and again, Plaintiff has not contended with the undisputed fact that the Court has 19 subject-matter jurisdiction over the UCL claim pursuant to CAFA. That the Court might not be 20 able to provide injunctive relief does not divest the Court of its subject-matter jurisdiction. 21 Plaintiff's policy arguments to the contrary, while notable, are unpersuasive. Essentially, Plaintiff 22 asks the Court notwithstanding the subject-matter jurisdiction it has over Plaintiff's UCL claim to 23 abstain from such jurisdiction and remand the matter to state court. Though the Court is 24 cognizant that proceeding in the federal forum possibly limits the available equitable remedies a 25 plaintiff might otherwise seek in state court, Plaintiff has not adequately demonstrated that the 26 Court must or should remand here.² 27 2 Plaintiff's suggestion that this outcome may work to injustice to her is taken. However, Plaintiff's point proceeds under the assumption of how she has presently pleaded her case. Again, as Plaintiff is aware, she is the master of her 28 complaint. Just as a plaintiff is able to plead themselves out of federal court in other contexts, nothing would stop a 1 Moreover, Defendant discusses that this position appears to be at odds with § 1447(c) and 2 CAFA. Defendant directs the Court to *Cabral v. Supple, LLC*, No. EDCV-12-00085-MWF-OP, 3 2016 WL 1180143 (C.D. Cal. Mar. 24, 2016), which the Court finds persuasive. In *Cabral*, the 4 plaintiff moved for partial remand of her California consumer protection claims so that she might 5 seek injunctive relief in the state court. Id. at *2. The Court began by quoting 28 U.S.C. § 6 1447(c): "[i]f at any time before final judgment it appears that the district court lacks subject 7 matter jurisdiction, the case shall be remanded." Id. As in the case at bar, the *Cabral* court noted 8 that it had original jurisdiction over the action pursuant to CAFA. Id. The court continued, 9 stating "[t]hat Plaintiff lacks standing to obtain injunctive relief [in federal court] neither changes 10 that conclusion nor gives the Court discretion to remand the entire action." Id., citing *Lee*, 260 11 F.3d at 1006. As part of its analysis, the court observed that 12 Neither the Ninth Circuit nor the Supreme Court has permitted a partial remand in the face original federal jurisdiction. It is true, as 13 Plaintiff points out, that *Lee* briefly considered but declined to decide whether a partial remand could be appropriate when the 14 plaintiff would be otherwise forced to forego her nonjusticiable state-law claims. *Lee*, 260 F.3d at 1007 ('In some cases, a plaintiff 15 might forfeit an otherwise viable state-law claim because that claim was part of a removed diversity case which was subsequently 16 determined to be beyond the federal court's power to decide, a result which might militate in favor of remanding, rather

than 17 dismissing, nonjusticiable state-law claims.’). In raising this possibility, the panel cited Carnegie-Mellon, where the Supreme 18 Court permitted district courts with supplemental jurisdiction over state-law claims to remand the action after dismissing all federal 19 claims. 484 U.S. at 350-51. The Court noted that ‘a remand generally will be preferable to a dismissal when the statute of 20 limitations on the plaintiff’s state-law claims has expired before the federal court has determined that it should relinquish jurisdiction 21 over the case. In such a case, a dismissal will foreclose the plaintiff from litigating his claims.’ Id. at 351-52. 22 Id. at *3 (emphasis in original). Thus, the Cabral court was reluctant to “construct a new doctrine 23 of partial remand based on dicta in Lee and statements the Supreme Court made in the context of 24 supplemental, not original, jurisdiction.” Id. The Court finds this analysis and conclusion in 25 Cabral to be sound. Additionally, Cabral went further, finding that even if partial remand were 26 appropriate, doing so would not be appropriate in a context where a plaintiff seeks “not to remand 27 plaintiff from bringing a UCL claim in state court and at the same time pleading themselves out of CAFA 28 jurisdiction. 1 a claim but to remand a remedy.” Id. (emphasis in original). Of course, this is the exact posture 2 of the case at bar. 3 Regarding the textual component of §1447(c), the Cabral court discussed that 4 As a textual matter, nothing in § 1447(c) permits the Court to remand a claim over which it has original jurisdiction. And there is 5 no doubt that the Court has original jurisdiction over all three of Plaintiff’s claims asserted under the UCL, FAL, and CLRA. See 6 United Steel, 602 F.3d at 1092 (district court maintains jurisdiction over the named plaintiff’s state law claims under CAFA). The fact 7 that Article III prohibits Plaintiff from obtaining a certain type of remedy in case she prevails on her claims does not detract from that 8 conclusion. It bears repeating that the lack of injunctive relief does not equate to the lack of subject matter jurisdiction over the 9 underlying claim. Under the plain meaning of § 1447(c), therefore, Plaintiff’s request must be rejected. 10 Id. The Cabral court also discussed the potential waste of litigation resources in splitting a 11 remedy from a claim. Id. Again, the Court finds the analysis and reasoning of Cabral to be 12 persuasive. 13 Thereafter, Cabral discussed that the majority of district courts to confront this issue, 14 labeled “remedy remands,” reached the same conclusion. Id. at *4, discussing Mezzadri v. 15 Medical Depot, Inc., 113 F.Supp.3d 1061 (S.D. Cal. 2015); Davidson v. Kimberly-Clark 16 Corporation, No. C 14-1783 PJH, 2015 WL 2357088 (N.D. Cal. May 15, 2015). 17 Cabral then confronted Plaintiff’s lead rebuttal precedent to this argument: Machlan v. 18 Procter & Gamble Co., 77 F. Supp. 3d 954 (N.D. Cal. 2015). In Machlan, the district court found 19 support in Lee and Carnegie-Mellon for a remand of “the injunctive relief portions of plaintiff’s 20 claims.” Id. at 961. Under the “principles of fairness and comity,” the Machlan court reasoned, 21 “a California state court ought to decide whether injunctive relief is appropriate for plaintiff’s 22 claims.” Id. The district court thus issued a remand and later stayed its docket. Id. Regarding 23 this, the court in Cabral opined: 24 The Court respectfully disagrees with the reasoning in Machlan. 25 Congress already considered the ‘principles of fairness and comity’ when it passed CAFA, and it is not for this Court to second-guess 26 Congress’s judgment. For the Court to

refuse to adjudicate claims falling squarely within its jurisdiction is to circumvent CAFA's goal of providing a federal forum for class actions implicating interstate interests. The only alternative is to proceed in federal and state courts simultaneously, but as the Court already explained, such claim-splitting would produce immense inefficiencies. If a class action plaintiff, therefore, wishes to obtain injunctive relief that is not available in federal court, she must narrow her class to take it outside of CAFA's purview. Otherwise, she must proceed in federal court without the prospect of obtaining an injunction. 2016 WL 1180143, at *4. The Court is again persuaded by the logic of Cabral and likewise finds Machlan to not be persuasive. See also Chuang, 2017 WL 2463951, at *3 (citing Cabral for the same conclusion). For the foregoing reasons, the Court does not find Plaintiff's argument for remand based on lack of Article III standing for injunctive relief, whether in total or part, to be persuasive. 9 * * * 10 In sum, the Court on a motion to remand looks to whether it can exercise subject-matter jurisdiction over the claims in a plaintiff's compliant subsequent a removal. Here, it is undisputed that the Court has subject-matter jurisdiction pursuant to CAFA. And the holdings in Ruiz, and Defendant's waiver of its adequate-remedy-at-law defense, the Court concludes that this action may proceed in federal court. Furthermore, pursuant to Lee, the Court may exercise subject-matter jurisdiction over the UCL claim notwithstanding that Plaintiff may not have standing to pursue her injunctive relief. 4 The Court declines Plaintiff's apparent invitation to split the injunctive relief remedy from the UCL claim by remanding that portion to state court. 18 Thus, this matter should proceed in in the federal forum. 19 IV.

20 CONCLUSION AND ORDER

21 For the foregoing reasons, IT IS HEREBY RECOMMENDED that Plaintiff's motion to 22 remand be DENIED. (ECF No. 10.) 23 These findings and recommendations are submitted to the district judge assigned to this 24 action, pursuant to 28 U.S.C. § 636(b)(1)(B) and this Court's Local Rule 304. Within fourteen 25 3 Though unnecessary based on the findings and conclusions above, the Court also agrees with Defendant that splitting the injunctive relief remedy from the UCL claim would likely "violate California's primary rights doctrine." 26 Chuang, 2017 WL 2463951, at *2, citing Cabral, 2016 WL 1180143, at *4; Mycogen Crop. v. Monsanto Co., 28 Cal. 4th 888, 904 (Cal. 2002); Mezzadri, 113 F. Supp. 3d at 1065-66; Davidson, 2015 WL 2357088, at *4. 27 4 Nothing in this order should be read to preclude either party from later asserting or attacking Article III standing on 28 a subsequent dispositive motion. 1 | (14) days of service of this recommendation, any party may file written objections to these 2 | findings and recommendations with the court and serve a copy on all parties. Such a document 3 | should be captioned "Objections to Magistrate Judge's Findings and Recommendations." The 4 | district judge will review the magistrate judge's findings and recommendations pursuant to 28 5 | U.S.C. § 636(b)(1) (C). The parties are advised that failure to file objections within the specified 6 | time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014), citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991). 8

9 IT IS SO ORDERED. FA. Se

10 | Dated: _December 11, 2025

STANLEY A. BOONE

11 United States Magistrate Judge 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 20

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