

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Tillman v. Richman Property Services, Inc.

Tillman · No. 3:24-cv-01598-JES-BLM · Decided April 10, 2025

SUMMARY

The United States District Court for the Southern District of California grants Plaintiffs' motion to remand an ICRAA action to California state court. The court concludes that Defendant failed to establish by a preponderance of the evidence that the amount in controversy exceeded \$75,000 for diversity jurisdiction. Defendant's motion to transfer or alternatively dismiss is denied as moot.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	James E. Simmons, Jr.
JURISDICTION	United States District Court for the Southern District of California
DECIDED	April 10, 2025
DOCKET	3:24-cv-01598-JES-BLM
DISPOSITION	remanded
PROCEDURAL POSTURE	Defendant removed Plaintiffs' California state-court action to federal court based on diversity jurisdiction. Plaintiffs moved to remand, and Defendant moved to transfer or, alternatively, dismiss.
STANDARD OF REVIEW	The removing defendant bears the burden of establishing federal jurisdiction by a preponderance of the evidence. Removal statutes are strictly construed against removal, and doubts are resolved in favor of remand.
PRECEDENTIAL VALUE	Nonprecedential district court order
PARTIES	Natalie Tillman, David Tillman v. Richman Property Services, Inc.

TOPICS

- subject matter jurisdiction
- civil procedure
- consumer protection
- attorney fees
- declaratory judgment

PRACTICE AREAS

- civil procedure
- removal and remand
- federal jurisdiction
- consumer protection
- real estate

QUESTIONS PRESENTED

1. Whether Defendant established by a preponderance of the evidence that the amount in controversy exceeded \$75,000 for purposes of diversity jurisdiction.
2. Whether the court should consider claimed statutory damages, punitive and compensatory damages, attorneys' fees, injunctive relief, and declaratory relief in calculating the amount in controversy.
3. Whether the First Amended Complaint was operative for the jurisdictional analysis when Plaintiffs had not shown that it was served on Defendant.
4. Whether Defendant's motion to transfer or, alternatively, to dismiss should be decided after remand.

HOLDINGS

1. Removal was improper because Defendant failed to prove by a preponderance of the evidence that the amount in controversy exceeded the \$75,000 threshold required by 28 U.S.C. § 1332(a).
2. Defendant could not include a substantial estimate of future attorneys' fees because it failed to provide adequate evidence showing that fees exceeding the jurisdictional threshold were more likely than not.
3. The original complaint, rather than the First Amended Complaint, was the operative pleading for the jurisdictional analysis because Plaintiffs did not show that the amended complaint had been served on Defendant.
4. The motion to transfer or, alternatively, to dismiss was denied as moot after the case was remanded to state court.

KEY QUOTATIONS

“Consistent with the limited jurisdiction of federal courts, the removal statute is strictly construed against removal jurisdiction.” (at 2)

“Therefore, the “burden of establishing that removal is proper” always lies with the defendant.” (at 2)

“If there is any doubt as to the propriety of removal, the court shall reject federal subject matter jurisdiction.” (at 2-3)

“Because the removal statute is strictly construed, and all doubts are resolved in favor of remand, the Court finds that Richman fails to submit adequate evidence substantiating any attorneys’ fees.” (at 12)

FACTUAL BACKGROUND

Plaintiffs submitted a rental application for an apartment operated by Richman Property Services. Richman obtained at least two investigative consumer reports concerning each Plaintiff but allegedly did not provide the required disclosure, consent-form option, or copies of the reports. Plaintiffs sought statutory and other damages, fees, declaratory relief, and injunctive relief under California law.

PROCEDURAL HISTORY

Plaintiffs filed claims under California's Investigative Consumer Reporting Agencies Act, invasion of privacy, and false advertising in the Superior Court of San Diego County. Defendant removed the action under 28 U.S.C.

§ 1332(a). The district court granted remand because Defendant failed to establish by a preponderance of the evidence that the amount in controversy exceeded \$75,000, and denied the transfer or dismissal motion as moot.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The case is remanded to the Superior Court of California, County of San Diego, Case No. 24CU004504C. The motion to transfer or alternatively dismiss is denied as moot.

CASES CITED

- *Gunn v. Minton*, 568 U.S. 251, 256 (2013)
- *Audo v. Ford Motor Co.*, 2018 WL 3323244, at *1 (S.D. Cal. July 6, 2018)
- *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992)
- *Hansen v. Grp. Health Coop.*, 902 F.3d 1051, 1057 (9th Cir. 2018)
- *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 88 (2014)
- *De Villing v. Sabert Corp.*, 2018 WL 6570868, at *2 (C.D. Cal. Dec. 11, 2018)
- *Ibarra v. Manheim Investments, Inc.*, 775 F.3d 1193, 1197 (9th Cir. 2015)
- *Singer v. State Farm Mut. Auto. Ins. Co.*, 116 F.3d 373, 377 (9th Cir. 1997)
- *Calloway v. Richman Property Services, Inc.*, 2024 WL 4492045 (C.D. Cal. Oct. 15, 2024)
- *Completo v. Richman Property Services, Inc.*, 2024 WL 4492044 (C.D. Cal. Oct. 15, 2024)
- *Lucero v. Wong*, 2011 WL 5834963, at *5 (N.D. Cal. Nov. 10, 2011)
- *BP West Coast Prods. LLC v. May*, 347 F. Supp. 2d 898, 901 (D. Nev. 2004)
- *Lee v. City of Los Angeles*, 250 F.3d 668, 689-90 (9th Cir. 2001)
- *Interstate Nat. Gas Co. v. Southern California Gas Co.*, 209 F.2d 380, 385 (9th Cir. 1954)
- *Engebretson & Co. v. Harrison*, 125 Cal. App. 3d 436, 444 (1981)
- *Murph v. Richman Property Services, Inc.*, 2024 WL 4607698, at *4 (C.D. Cal. Oct. 29, 2024)
- *Banuelos v. Colonial Life & Acc. Ins. Co.*, 2011 WL 6106518, at *2 (C.D. Cal. Dec. 8, 2011)
- *Dressler v. Hartford Fin. Servs. Grp., Inc.*, 2014 WL 12560796, at *7 (C.D. Cal. June 19, 2014)
- *Hulse v. Bethesda Lutheran Cmty., Inc.*, 2018 WL 1033223, at *3 (C.D. Cal. Feb. 23, 2018)
- *Gonzales v. CarMax Auto Superstores, LLC*, 840 F.3d 644, 649 (9th Cir. 2016)
- *Fritsch v. Swift Transportation Co. of Ariz., LLC*, 899 F.3d 785, 795 (9th Cir. 2018)
- *Kaplan v. BMW of N. Am., LLC*, 2021 WL 4352340, at *6 (S.D. Cal. Sept. 24, 2021)
- *Elmi v. Related Mgmt. Co., L.P.*, 2023 WL 6210756 (Cal. Ct. App. Sept. 25, 2023)
- *Corral v. Select Portfolio Servicing, Inc.*, 878 F.3d 770, 775 (9th Cir. 2017)
- *Hunt v. Washington State Apple Advert. Comm'n*, 432 U.S. 333, 347 (1977)

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