

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Jones v. Greyhound Lines, Inc.

No. 25-cv-05150-JD (N.D. Cal. Aug. 25, 2025) · No. 25-cv-05150-JD · Decided August 25, 2025

SUMMARY

The United States District Court for the Northern District of California grants plaintiff Devonna Jones’s motion to remand her employment-law action to state court. The court concludes that the individual California defendant was not shown to be fraudulently joined because California Labor Code section 1102.5 may permit individual liability, creating at least a possibility of a viable claim and defeating diversity jurisdiction.

OPINION

Jones v. Greyhound Lines, Inc.

PER CURIAM.

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4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 DEVONNA JONES, Case No. 25-cv-05150-JD 8 Plaintiff,

ORDER RE REMAND

v. 9 10 GREYHOUND LINES, INC., et al., Defendants. 11 12 13 Plaintiff Devonna Jones sued her former employer, Greyhound Lines, Inc. (Greyhound), 14 and former supervisor, Angela Murff, on several California state law employment claims, 15 including whistleblower retaliation under California Labor Code § 1102.5. See Dkt. No. 1-3, 16 Ex. A (Compl.). Jones originally filed the case in San Francisco County Superior Court, and 17 defendants removed the action to this Court on an allegation of traditional diversity jurisdiction 18 under 28 U.S.C. § 1332(a)(1). Dkt. No. 1. Jones asks for a remand to state court. Dkt. No. 12. 19 The parties’ familiarity with the record is assumed, and the case is remanded. 20 The parties do not dispute that Jones and Greyhound have diverse citizenship. See Dkt.

21 No. 1; Dkt. No. 12. They disagree about the effect of individual defendant Murff, who, like Jones,

22 is a California resident. See Compl. at ¶ 3. Murff is named in the first cause of action for 23 violation of California Labor Code § 1102.5, for whistleblower retaliation. Compl. at ¶¶ 25-34. 24 Defendants say that Murff is a sham defendant who was fraudulently joined and whose citizenship 25 should consequently be disregarded for jurisdictional purposes. See Dkt. No. 1 at 5-8. 26 The governing standards for the remand motion are well established. As in all federal 27 cases, the

foundational principle is that the jurisdiction of the federal courts is limited to what is 1 375, 377 (1994). “Diversity jurisdiction arises when a plaintiff sues a citizen of a different state 2 over an amount in controversy exceeding \$75,000.” *Dole v. Verisk Analytics, Inc.*, No. 22-cv- 3 06625-JD, 2023 WL 2985116, at *1 (N.D. Cal. Apr. 17, 2023) (citing 28 U.S.C. § 1332(a)). “An 4 out-of-state defendant may remove to federal court ‘any civil action brought in a State court of 5 which the district courts of the United States have original jurisdiction.’” *Id.* (quoting 28 U.S.C. 6 § 1441(a)). “A plaintiff may move to remand the action to state court if the case was improperly 7 removed because of a lack of subject-matter jurisdiction.” *Id.* (citing 28 U.S.C. § 1447(c)). There 8 is a “strong presumption against removal jurisdiction,” *Hansen v. Grp. Health Coop.*, 902 F.3d 9 1051, 1057 (9th Cir. 2018) (internal quotation and citation omitted), and any doubt about removal 10 weighs in favor of remand, see *Hawaii ex rel. Louie v. HSBC Bank Nev., N.A.*, 761 F.3d 1027, 11 1034 (9th Cir. 2014). “Principles of federalism, comity, and respect for the state courts also 12 counsel strongly in favor of scrupulously confining removal jurisdiction to the precise limits that 13 Congress has defined.” *California v. AbbVie Inc.*, 390 F. Supp. 3d 1176, 1180 (N.D. Cal. 2019) 14 (citing *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 109 (1941)). 15 The burden of establishing removal is even heavier when a defendant is said to have been 16 fraudulently joined to defeat jurisdiction. “There are two ways to establish fraudulent joinder: ‘(1) 17 actual fraud in the pleading of jurisdictional facts, or (2) inability of the plaintiff to establish a 18 cause of action against the non-diverse party in state court.’” *Geisse v. Bayer HealthCare Pharms. 19 Inc.*, No. 17-cv-07026-JD, 2019 WL 1239854, at *2 (N.D. Cal. Mar. 18, 2019) (quoting *Grancare, 20 LLC v. Thrower by and Through Mills*, 889 F.3d 543, 548 (9th Cir. 2018)) (internal citation 21 omitted). “[S]hort of proving that the plaintiff committed actual fraud in pleading jurisdictional 22 facts, a defendant urging fraudulent joinder must show that the non-diverse party who was joined 23 in the action cannot be liable on any theory.” *Id.* (quoting *Grancare*, 889 F.3d at 548) (internal 24 quotation omitted). “Our circuit has emphasized that this inquiry is not the same as the Rule 25 12(b)(6) review for failure to state a plausible claim.” *Id.* (citing *Grancare*, 889 F.3d at 549). “It 26 has a lower bar and requires only that there is a possibility that a state court would find that the 27 complaint states a cause of action against any of the [non-diverse] defendants.” *Id.* (quoting 1 the joinder of a non-diverse party will not necessarily be deemed fraudulent even if the claim 2 could be dismissed.” *Id.* (citing *Grancare*, 889 F.3d at 549). “In effect, the ‘possibility’ standard 3 is akin to the ‘wholly insubstantial and frivolous standard for dismissing claims under Rule 4 12(b)(1).’” *Id.* (quoting *Grancare*, 889 F.3d at 549-50). If there is any possibility above the 5 trivial or frivolous that the plaintiff can state a claim against the non-diverse defendant, “the 6 federal court must find that the joinder was proper and remand the case to the state court.” *Hunter 7 v. Philip Morris USA*, 582 F.3d 1039, 1046 (9th Cir. 2009) (quotations and citation omitted). In 8 short, there is a “‘general presumption against [finding] fraudulent joinder,’” which adds to the 9 usual presumption against removal in all cases under Section 1332(a) and imposes a particularly 10 heavy burden on the defendant to prove. *Grancare*, 889 F.3d at 548 (quoting *Hunter*, 582 F.3d at

11 1046). 12 The possibility of individual liability against Murff turns on Section 1102.5 of the 13 California Labor Code. The Section states: “(b) An employer, or any person acting on behalf of 14 the employer, shall not retaliate against an employee for [whistleblowing].” Cal. Lab. Code 15 § 1102.5 (emphasis added). The italicized language was added in a 2013 amendment. See S.B.

16 No. 496, 2013-14 State Leg., Reg. Sess. (Ca. 2013), 2013 Cal. Legis. Serv. Ch. 781.

17 Neither the California Supreme Court nor the state courts of appeal have definitively 18 construed Section 1102.5 with respect to the question of the potential liability of individuals. See 19 *Cao v. Bank of Am., N.A.*, No. 24-CV-01195-JD, 2025 WL 660248 (N.D. Cal. Feb. 28, 2025) (“In 20 the absence of definitive pronouncements from the Supreme Court of California, ‘we follow 21 decisions of the California Court of Appeal unless there is convincing evidence that the California 22 Supreme Court would hold otherwise.’” (quoting *Carvalho v. Equifax Info. Servs., LLC*, 629 F.3d 23 876, 889 (9th Cir. 2010))). Other federal district courts have recognized that “[a]fter the 24 amendments, ‘the plain language of section 1102.5 seems to stretch itself to individual liability.’” 25 *Tan v. InVentiv Health Consulting Inc.*, No. CV 19-07512-CJC(ASX), 2019 WL 5485654, at *3 26 (C.D. Cal. Oct. 24, 2019) (citation omitted). 27 Because the plain language of the statute could be read to contemplate individual liability, 1 possibility Jones may state a cause of action against Murff. Other district courts have reached the 2 same conclusion. See, e.g., *Tan*, 2019 WL 5485654, at *3; *Ferguson v. Marsh & McLennan 3 || Agency LLC*, No. 21-CV-00585-JST, 2021 WL 4974798, at *4 (N.D. Cal. June 10, 2021) 4 (collecting cases). 5 Defendants have not presented a good reason for a different result. Defendants cite *Reno 6 v. Baird*, 18 Cal.4th 640 (1998), and *Jones v. Lodge at Torrey Pines Partnership*, 42 Cal.4th 1158 7 (2008), Dkt No. 14 at 3-4, but those cases involved a different statute, namely the Fair 8 Employment and Housing Act, Cal. Gov. Code 8§ 12490 et seq. They also pre-date the 9 amendment of the whistleblower statute in 2013. Overall, defendants’ case citations do not 10 || foreclose the “possibility” that a California state court could allow for individual liability under 11 Section 1102.5. See *Geisse*, 2019 WL 1239854, at *2 (quotations omitted).

12 Defendants cite other federal district court cases dismissing Section 1102.5 claims against 13 individuals under Rule 12(b)(6). Dkt. No. 14 at 4-5. These cases are less than they might appear 14 || because the jurisdictional inquiry for the purposes of removal is not the same as Rule 12(b) (6) 3 15 review. Jones need meet only a “lower bar [that] requires only that there is a possibility that a a 16 state court would find that the complaint states a cause of action against any of the [non-diverse] 3 17 defendants.” *Geisse*, 2019 WL 1239854, at *2 (quotations omitted). Irrespective of what the 18 federal courts may have concluded, no California state court has dispositively foreclosed such a 19 || possibility. 20 Consequently, the case is ordered remanded to the Superior Court of the State of California 21 for the City and County of San Francisco. 28 U.S.C § 1447(c). Each side will bear its own costs 22 and fees in connection with the removal and remand proceedings. 23 IT IS SO ORDERED. 24 Dated: August 25, 2025 25 26

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27 United ff tates District Judge 28

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