

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Lopez v. SeaWorld Parks & Entertainment, Inc.

Lopez · No. 23-cv-0429-L-AHG · Decided August 2, 2023

OPINION

Lopez v. SeaWorld Parks & Entertainment, Inc.

PER CURIAM.

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7 UNITED STATES DISTRICT COURT

8 SOUTHERN DISTRICT OF CALIFORNIA

9 10 CRISTIAN LOPEZ, Case No.: 23-cv-0429-L-AHG 11 Plaintiff,

ORDER DENYING MOTION TO

12 v. REMAND

13 SEAWORLD PARKS &

[ECF No. 8]

ENTERTAINMENT, INC., and DOES

14 1–100, 15 Defendants. 16 17 Pending before the Court is Plaintiff Cristian Lopez’s (“Plaintiff”) motion to remand. 18 (ECF No. 8.) Defendant Seaworld LLC (“Defendant”), erroneously sued as Seaworld 19 Parks & Entertainment, Inc., filed an opposition. (ECF No. 13.) For the reasons stated 20 below, Plaintiff’s motion to remand is denied.

21 I. BACKGROUND

22 On January 31, 2023, Plaintiff, a citizen of California, filed a complaint in San 23 Diego Superior Court. (ECF No. 6, at 3, 6.) Defendant was served with the complaint on 24 February 7, 2023. (ECF No. 13-1, Marrero Decl., at 2.) Defendant filed a notice of 25 removal in the United States District Court for the Southern District of California on 26 March 8, 2023, asserting diversity jurisdiction pursuant to 28 U.S.C. § 1332 as the 27 grounds for removal. (ECF No. 6, at 3–4.) A copy of the notice was mailed to Plaintiff’s 28 counsel the same day. (ECF No. 6, at 15.) On March 10, 2023, Plaintiff filed an 1 amendment to his complaint in San Diego Superior Court naming Marc Alnwick as DOE 2 1. (ECF No. 8-3, at 14–16.) Alnwick, a citizen of California, was served on March 17, 3 2023. (ECF No. 8-4.) Defendant filed a notice of removal in San Diego Superior Court 4 on March 30, 2023. (ECF No. 8-5, at 2.) Plaintiff now moves to remand the instant 5 action for lack of subject-matter jurisdiction. (ECF No. 8.)

6 II. DISCUSSION

7 “Diversity removal requires complete diversity, meaning that each plaintiff must 8 be of a

different citizenship from each defendant.” *Grancare, LLC v. Thrower by and 9 through Mills*, 889 F.3d 543, 548 (9th Cir. 2018) (citing *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 68 (1996)). It follows that the addition of Alnwick to the present case would 11 destroy diversity and require remand. The dispositive question then is whether Plaintiff’s 12 amendment to his complaint, including the addition of Alnwick as a defendant, is 13 properly before the Court. 14 “The removal of an action to federal court necessarily divests state and local courts 15 of their jurisdiction over a particular dispute.” *California ex rel. Sacramento Metro. Air 16 Quality Mgmt. Dist. v. United States*, 215 F.3d 1005, 1011 (9th Cir. 2000); see also 28 17 U.S.C. § 1446(d) (stating that following removal “the State court shall proceed no further 18 unless and until the case is remanded”). The Ninth Circuit has held that “the clear 19 language of the general removal statute provides that the state court loses jurisdiction 20 upon the filing of the petition for removal.” *Resol. Tr. Corp. v. Bayside Devs.*, 43 F.3d 21 1230, 1238 (9th Cir. 1994). Thus, the instant action was removed and the state court was 22 stripped of jurisdiction on March 8, 2023, when Defendant filed the petition for removal 23 in federal court. Plaintiff’s March 10, 2023 amendment is vacated and Alnwick is not a 24 defendant in the present federal action. See *Resol. Tr. Corp.*, 43 F.3d at 1239; *Kern v. 25 Huidekoper*, 103 U.S. 485, 493 (1880) (“After the filing in the United States Circuit 26 Court . . . of the record of the proceedings in the State court, the latter lost all jurisdiction 27 over the case, and, being without jurisdiction, its subsequent proceedings and judgment 28 1 || were not, as some of the State courts have ruled, simply erroneous, but absolutely void.”). 2 || Accordingly, the parties before the Court are diverse and remand is not warranted.

3 CONCLUSION

4 For the forgoing reasons, Plaintiff’s motion to remand is DENIED. 5 IT IS SO ORDERED. 6 7 ||Dated: August 2, 2023 pee ep? 9 H . James Lorenz, 10 United States District Judge 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28