

**UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA**

Rogelio Aviles and Claudia Chaves v. Thor Motor Coach, Inc.

Aviles v. Thor Motor Coach · No. 5:25-cv-01132-JWH-SHK · Decided July 21, 2025

OPINION

Rogelio Aviles v. Thor Motor Coach, Inc.

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE CENTRAL DISTRICT OF CALIFORNIA

10 11 ROGELIO AVILES, an individual; and Case No. 5:25-cv-01132-JWH-SHK CLAUDIA
CHAVES, an individual, 12 Plaintiffs, ORDER DENYING PLAINTIFFS’

13 MOTION TO REMAND [ECF

v. No. 12] 14

THOR MOTOR COACH, INC., a

15 Delaware Corporation; and DOES 1 through 20, inclusive, 16 Defendants. 17 18 19 20 21 22
23 24 25 26 27 1 Before the Court is the motion of Plaintiffs Rogelio Aviles and Claudia 2 Chaves
to remand this action to Los Angeles County Superior Court.¹ The 3 Court concludes that this
matter is appropriate for resolution without a hearing. 4 See Fed. R. Civ. P. 78; L.R. 7-15. After
considering the papers filed in support 5 and in opposition,² the Court DENIES Plaintiffs’ motion.

6 I. BACKGROUND

7 Plaintiffs filed the instant action against Defendant Thor Motor Coach, 8 Inc. in April 2025 in
Los Angeles County Superior Court.³ Plaintiffs assert 9 claims for breach of implied warranty and
breach of express warranty under the 10 Song-Beverly Act.⁴ Those claims arise from Plaintiffs’
purchase of a 2025 Thor 11 Industry Palazzo GT Motorhome.⁵ 12 In May 2025, Thor Motor
Coach removed this action to this Court, 13 pursuant to 28 U.S.C. § 1332.6 In June 2025, the
Court issued an Order to Show 14 Cause directing the parties to file their respective Disclosure
Statements 15 pursuant to Rule 7.1 of the Federal Rules of Civil Procedure,⁷ and all parties 16 17
18 19 20 21 1 Pls.’ Mot. to Remand Case to Los Angeles Superior Court (the “Motion”) [ECF No.
12]. 22 2 See id.; Def.’s Opp’n to Motion (the “Opposition”) [ECF No. 18]. 23 3 Compl. (the
“Complaint”) [ECF No. 1-1]. 24 4 See generally id. 25 5 Id. at ¶ 4. 26 6 Notice of Removal [ECF
No. 1]. 27 7 Order to Show Cause Regarding Failure to File Rule 7.1 Disclosures 1 complied.⁸
Also in June 2025, Plaintiffs filed the instant Motion to remand,⁹ 2 and it is fully briefed.

3 II. LEGAL STANDARD

4 Federal courts are courts of limited jurisdiction. Accordingly, “[t]hey 5 possess only that power

authorized by Constitution and statute.” *Kokkonen v. 6 Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). In every federal case, the 7 basis for federal jurisdiction must appear affirmatively from the record. See 8 *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342 n.3 (2006). “The right of 9 removal is entirely a creature of statute and a suit commenced in a state court 10 must remain there until cause is shown for its transfer under some act of 11 Congress.” *Syngenta Crop Prot., Inc. v. Henson*, 537 U.S. 28, 32 (2002) (internal 12 quotation marks omitted). When Congress has acted to create a right of 13 removal, those statutes, unless otherwise stated, are strictly construed against 14 removal jurisdiction. See *id.* 15 To remove an action to federal court under 28 U.S.C. § 1441, the 16 removing defendant “must demonstrate that original subject-matter jurisdiction 17 lies in the federal courts.” *Syngenta*, 537 U.S. at 33. As such, a defendant may 18 remove civil actions in which either (1) a federal question exists; or (2) complete 19 diversity of citizenship between the parties exists and the amount in controversy 20 exceeds \$75,000. See 28 U.S.C. §§ 1331 & 1332. 21 The right to remove is not absolute, even when original jurisdiction exists. 22 The removing defendant bears the burden of establishing that removal is proper. 23 See *Abrego Abrego v. The Dow Chem. Co.*, 443 F.3d 676, 684 (9th Cir. 2006) 24 (noting the “longstanding, near-canonical rule that the burden on removal rests 25 8 Def.’s Response to OSC re 7.1 Disclosures (“Defendant’s Disclosure 26 Statement”) [ECF No. 17]; Pls.’ Rule 7.1 Disclosure Statement (“Plaintiffs’ 27 Disclosure Statement”) [ECF No. 16]. 1 with the removing defendant”); *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 2 1992) (“The strong presumption against removal jurisdiction means that the 3 defendant always has the burden of establishing that removal is proper.”) 4 (quotation marks omitted). Any doubt regarding the existence of subject matter 5 jurisdiction must be resolved in favor of remand. See *id.* at 566 (“Federal 6 jurisdiction must be rejected if there is any doubt as to the right of removal in the 7 first instance.”).

8 III. ANALYSIS

9 Plaintiffs assert that Thor Motor Coach failed to meet its burden to prove 10 diversity jurisdiction because it did not support its allegation that Plaintiffs are 11 domiciled in California and because the recovery amounts are too speculative to 12 meet the amount-in-controversy requirement.¹⁰ Plaintiffs also request that the 13 Court remand this action pursuant to the principles of comity.¹¹ 14 A. Diversity of Citizenship 15 It is well settled that “the party asserting diversity bears the burden of 16 proof.” *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857-58 (9th Cir. 2001). 17 For the purpose of diversity jurisdiction, the citizenship of a natural person is 18 determined by United States citizenship and state of domicile. See *Kantor v. 19 Wellesley Galleries, Ltd.*, 704 F.2d 1088 (9th Cir. 1983). An individual’s domicile 20 is determined at the time the action is filed, see *Lew*, 797 F.2d at 750, and it is 21 established based upon “a fixed habitation or abode in a particular place, and an 22 intention to remain there permanently or indefinitely,” *Owens v. Huntling*, 115 23 F.2d 160, 162 (9th Cir.1940)). In contrast, “a corporation shall be deemed to be 24 a citizen of every State . . . by which it has been incorporated and of the

State . . . 25 where it has its principal place of business.” 28 U.S.C. § 1332(c). At this stage 26 27 10 Id. at 5:17-21 & 6:10-16. 1 of the case, Thor Motor Coach is merely required to allege diversity —albeit in 2 such a manner that affirmatively alleges the actual citizenship of the relevant 3 parties. See *Kanter*, 265 F.3d at 857. 4 In its Notice of Removal, Thor Motor Coach alleges that Plaintiffs are 5 citizens of California.¹² Thor Motor Coach also pleads that it is an Indiana 6 corporation, with its principal place of business in Indiana.¹³ In its Rule 7.1 7 Disclosure Statement, Thor Motor Coach states that it is organized under the 8 laws of Delaware.¹⁴ Accordingly, Thor Motor Coach is a citizen of both Indiana 9 and Delaware. As Plaintiffs are citizens of California, and Thor Motor Coach is 10 a citizen of Indiana and Delaware, the diversity requirement of 28 U.S.C. 11 § 1332(a)(1) is satisfied. 12 B. Amount in Controversy 13 Thor Motor Coach alleges that the amount-in-controversy requirement is 14 satisfied based upon Plaintiffs’ request for restitution, attorney’s fees, and civil 15 penalties.¹⁵ Plaintiffs argue that the amount in controversy is too speculative to 16 satisfy the \$75,000 requirement, because Thor Motor Coach has not “point[ed] 17 to evidence that a jury is likely to award a civil penalty.”¹⁶ 18 Courts in the Ninth Circuit routinely consider civil penalties when 19 deciding whether the amount-in-controversy requirement has been satisfied, 20 including in *Song-Beverly* cases. See, e.g., *Babasa v. LensCrafters, Inc.*, 498 F.3d 21 972, 974 (9th Cir. 2007); see also *Morey v. Louis Vuitton North Am., Inc.*, 561 22 12 Notice of Removal ¶ 3. In Plaintiffs’ Disclosure Statement, Plaintiffs 23 admit that they are citizens of California. Plaintiffs’ Disclosure Statement 1:26- 24 27. 25 13 Notice of Removal ¶ 3. 26 14 Defendant’s Disclosure Statement 2:10-15. 27 15 Notice of Removal ¶ 3; see *Complaint, Prayer for Relief*. 1 F. App’x 642, 643 (9th Cir. 2011) (including *Song-Beverly* civil penalties in an 2 amount-in-controversy calculation). The Ninth Circuit has also held repeatedly 3 that attorneys’ fees may “be included in the amount in controversy if they are 4 available to prevailing plaintiffs pursuant to state fee-shifting statutes.” *Shoner 5 v. Carrier Corp.*, 30 F.4th 1144, 1148 (9th Cir. 2022). The *Song-Beverly* Act 6 permits a successful plaintiff to recover reasonable attorneys’ fees, so attorneys’ 7 fees must be included when calculating the amount in controversy here. See 8 Cal. Civ. Code § 1794(d). 9 C. Principles of Comity 10 Plaintiffs also request the Court to remand this action pursuant to the 11 principles of comity. “Under the principles of comity, federal courts of equity 12 should exercise their discretionary power with proper consideration for the 13 independence of state government in carrying out its governmental functions. 14 However, comity is a doctrine of discretionary abstention.” *Hawthorne Sav. 15 F.S.B. v. Reliance Ins. Co. of Illinois*, 421 F.3d 835, 852 (9th Cir. 2005), amended, 16 433 F.3d 1089 (9th Cir. 2006) (quoting *City & Cnty. of San Francisco v. 17 Assessment Appeals Bd. for City & Cnty. of San Francisco*, No. 1, 122 F.3d 1274, 18 1277 (9th Cir. 1997)). But Thor Motor Coach has a statutory right under 28 19 U.S.C. § 1441(b) to remove the instant action to federal court, so the principles 20 of comity do not factor into the Court’s analysis of whether remand is 21 appropriate. See *Assessment Appeals Bd.*, 122 F.3d at 1278 (“Because a federal 22 reserve bank has an unfettered right under section 632 to defend in federal

court, 23 the district court lacked discretion to remand the case back to state court on the 24 basis of comity.”). 25 Because the purchase price of the vehicle at issue exceeded \$250,000,17 26 the total amount in controversy exceeds the \$75,000 requirement of 28 U.S.C. 27 1|| § 1332(b). Both the diversity and amount-in-controversy requirements are 2|| satisfied, so the Court concludes that removal was proper. Accordingly, the Court DENIES the Motion.

4 IV. DISPOSITION

5 For the foregoing reasons, Plaintiffs’ instant Motion to remand [ECF 6|| No. 12] is DENIED. IT ISSO ORDERED. 9|| Dated: July 21, 2025

10 GNI D STATES DISTRICT JUDGE

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