

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Jared Rasmussen v. Fox Corporation; Fox Cable Network Services,
LLC; Christopher Ganny; Gregory Ochotorena; Diijon Williams;
Anna Druker; and Does 1-20, inclusive

Rasmussen v. Fox Corp. · No. 2:25-cv-08115-SPG-PVC · Decided November 21, 2025

SUMMARY

The United States District Court for the Central District of California denied Jared Rasmussen’s motion to remand his employment-related action against Fox entities and individual defendants. The court held that the individual defendants were fraudulently joined because the claims for intentional and negligent infliction of emotional distress were barred by California’s two-year statute of limitations. After discounting those defendants’ citizenship, the court concluded that removal was proper and did not reach the parties’ remaining arguments concerning snap removal and other grounds for fraudulent joinder.

CASE DETAILS

COURT	United States District Court for the Central District of California
JURISDICTION	United States District Court for the Central District of California
DECIDED	November 21, 2025
DOCKET	2:25-cv-08115-SPG-PVC
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved to remand an employment-related action removed from California state court on the basis of diversity jurisdiction, arguing that removal violated the forum defendant rule and was procedurally defective because it occurred before service. The court denied the motion to remand.
STANDARD OF REVIEW	The removing defendant bears the burden of establishing that removal is proper, and doubts concerning removal jurisdiction are resolved in favor of remand. In assessing fraudulent joinder, the court may pierce the pleadings and consider summary-judgment-type evidence.
PRECEDENTIAL VALUE	unpublished district court order

PARTIES

Jared Rasmussen v. Fox Corporation, Fox Cable Network Services, LLC, Christopher Ganny, Gregory Ochotorena, Dijon Williams, Anna Druker, Does 1-20, inclusive

TOPICS

civil procedure

subject matter jurisdiction

statute of limitations

employment law

ada / disability

PRACTICE AREAS

civil procedure

employment law

employment discrimination

torts

QUESTIONS PRESENTED

1. Whether the Individual Defendants were fraudulently joined because Rasmussen's intentional- and negligent-infliction-of-emotional-distress claims against them were barred by California's two-year statute of limitations.
2. Whether fraudulent joinder may be applied when a nondiverse defendant implicates the forum defendant rule but does not destroy complete diversity.
3. Whether removal before formal service was procedurally barred under 28 U.S.C. § 1446(b)(1).
4. Whether the Individual Defendants' citizenship should be disregarded for purposes of applying the forum defendant rule.

HOLDINGS

1. The fraudulent-joinder doctrine applies when a forum-state defendant triggers the forum defendant rule but does not destroy complete diversity; a defendant who was not properly joined because no viable state-law claim can be stated against that defendant need not be considered under 28 U.S.C. § 1441(b)(2).
2. The Individual Defendants were fraudulently joined because Rasmussen's intentional- and negligent-infliction-of-emotional-distress claims accrued no later than his July 21, 2023 termination and were barred by California's two-year statute of limitations when he filed suit on August 27, 2025.
3. After disregarding the Individual Defendants as fraudulently joined, the remaining parties did not violate the forum defendant rule, and removal was proper.
4. Section 1446(b)(1) does not bar a defendant from filing a notice of removal before formal service; the statute establishes a removal deadline rather than a period during which removal is prohibited.

KEY QUOTATIONS

“Under such circumstances, the Individual Defendants are deemed “sham defendants for purposes of removal,” and their citizenship must be discounted.” (p. 10)

“The plain text of 1446(b)(1) sets a deadline for removal, not a ‘window’ for removal.” (p. 11 n.3)

FACTUAL BACKGROUND

Rasmussen worked for Fox Corporation and Fox Cable Network Services, LLC beginning in September 2017. He alleged retaliation for complaints concerning misappropriation of company funds and sexual assault, workplace injury and failure to accommodate, and termination on July 21, 2023, following an investigation into his expense reports. He asserted emotional-distress claims against the Individual Defendants, all of whom resided in California, and filed suit on August 27, 2025.

PROCEDURAL HISTORY

Rasmussen filed the action in Los Angeles County Superior Court on August 27, 2025. The Fox Defendants removed it to the Central District of California the same day, before any defendant had been served. Rasmussen moved to remand; the court concluded that the Individual Defendants were fraudulently joined because the claims against them were time-barred, discounted their California citizenship, and denied remand.

DISPOSITION

other

CASES CITED

- Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994)
- Caterpillar Inc. v. Lewis, 519 U.S. 61, 68 (1996)
- Abrego Abrego v. The Dow Chem. Co., 443 F.3d 676, 679 (9th Cir. 2006)
- Kanter v. Warner-Lambert Co., 265 F.3d 853, 857 (9th Cir. 2001)
- Shamrock Oil & Gas Corp. v. Sheets, 313 U.S. 100, 108-09 (1941)
- Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992)
- Moore-Thomas v. Alaska Airlines, Inc., 553 F.3d 1241, 1244 (9th Cir. 2009)
- Grancare, LLC v. Thrower by & through Mills, 889 F.3d 543, 548-50 (9th Cir. 2018)
- Lee v. City of Los Angeles, 250 F.3d 668, 689 (9th Cir. 2001)
- Khoja v. Orexigen Therapeutics, Inc., 899 F.3d 988, 999 (9th Cir. 2018)
- Morris v. Nuzzo, 718 F.3d 660, 666 (7th Cir. 2013)
- Ekeya v. Shriners Hosp. for Children, Portland, 258 F. Supp. 3d 1192, 1199-1200 (D. Or. 2017)
- Brazell v. Waite, 525 F. App'x 878, 884 (10th Cir. 2013)
- Ritchey v. Upjohn Drug Co., 139 F.3d 1313, 1315, 1318-20 (9th Cir. 1998)
- Fox v. Ethicon Endo-Surgery, Inc., 35 Cal. 4th 797, 806-08 (2005)
- Wassmann v. S. Orange Cnty. Cmty. Coll. Dist., 24 Cal. App. 5th 825, 852-53 (2018)
- Miller v. Bank of Am., Nat'l Ass'n, 858 F. Supp. 2d 1118, 1127 (S.D. Cal. 2012)
- Aryeh v. Canon Bus. Sols., Inc., 55 Cal. 4th 1185, 1192, 1197 (2013)
- Hunter v. Philip Morris USA, 582 F.3d 1039, 1044-45 (9th Cir. 2009)
- McCabe v. Gen. Foods Corp., 811 F.2d 1336, 1339 (9th Cir. 1987)

- Morris v. Princess Cruise, Inc., 236 F.3d 1061, 1068 (9th Cir. 2001)
- Hamilton Materials, Inc. v. Dow Chem. Corp., 494 F.3d 1203, 1206 (9th Cir. 2007)
- Bancorp Leasing & Fin. Corp. v. Agusta Aviation Corp., 813 F.2d 272, 274 (9th Cir. 1987)
- Herriot v. Sanofi-Aventis U.S. LLC, 776 F. App'x 448, 449 (9th Cir. 2019)
- Cavallini v. State Farm Mut. Auto Ins. Co., 44 F.3d 256, 263 (5th Cir. 1995)
- Mayes v. Am. Hallmark Ins. Co. of Tex., 114 F.4th 1077, 1079 (9th Cir. 2024)

OPINION

Jared Rasmussen v. Fox Corporation; Fox Cable Network Services, LLC; Christopher Ganny; Gregory Ochotoreña; Dijon Williams; Anna Druker; and Does 1-20, inclusive
PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 CENTRAL DISTRICT OF CALIFORNIA

10 JARED RASMUSSEN, an individual, Case No. 2:25-cv-08115-SPG-PVC 11 Plaintiff,
ORDER DENYING PLAINTIFF'S 12

v. MOTION TO REMAND [ECF NO. 17]

13 14 FOX CORPORATION, a Delaware corporation; FOX CABLE NETWORK 15 SERVICES,
LLC, a Delaware company; 16 CHRISTOPHER GANNY, an individual;

17 GREGORY OCHOTORENA, an

individual; DIJON WILLIAMS, an 18 individual; ANNA DRUKER, an 19 individual; and DOES
1-20, inclusive, 20 Defendants. 21 22 Before the Court is the Motion to Remand (ECF No. 17
("Motion")) filed by Plaintiff 23 Jared Rasmussen ("Plaintiff"). The Court has read and considered
the Motion and 24 concluded that it is suitable for decision without oral argument. See Fed. R.
Civ. P. 78(b); 25 C.D. Cal. L.R. 7-15. Having considered the parties' submissions, the relevant law,
and the 26 record in this case, the Court DENIES the Motion. 27 28

1 I. BACKGROUND

2 The following allegations are taken from Plaintiff's Complaint. (ECF No. 1-1 3 ("Complaint")).
Plaintiff was employed by Defendants Fox Corporation and Fox Cable 4 Network Services, LLC
(the "Fox Defendants") beginning in September 2017. (Id. ¶ 15). 5 Defendants Christopher Ganny,
Gregory Ochotorena, Dijon Williams, and Anna Druker 6 (the "Individual Defendants," or,
together with Fox, "Defendants") are officers at Fox who 7 all reside in California. (Id. ¶¶ 6-9). 8
In brief, Plaintiff alleges that Defendants retaliated against him for raising 9 complaints about his
supervisor involving misappropriation of company funds and sexual 10 assault of another
employee. (Id. ¶ 20). Plaintiff also alleges that he was injured in the 11 course of his job duties and
that Defendants failed to provide reasonable accommodations. 12 (Id. ¶ 30). Plaintiff was
ultimately terminated on July 21, 2023. (Id. ¶ 53). He alleges his 13 termination was based on a
pretextual investigation into expense reports that he submitted 14 for a work trip. (Id.). 15 Plaintiff

brought this action alleging claims of disability discrimination in violation 16 of the Fair Employment and Housing Act (“FEHA”), failure to engage in the interactive 17 process in violation of FEHA, failure to accommodate in violation of FEHA, whistleblower 18 retaliation, negligent hiring, and wrongful termination against the Fox Defendants. (Id. at 19 14-21). Plaintiff also brought claims for intentional and negligent infliction of emotional 20 distress against all Defendants. (Id. at 21-22). As relief, Plaintiff seeks damages in excess 21 of \$15,000,000, in addition to punitive damages and civil penalties. (Id. at 23). 22 Plaintiff initiated this action in Los Angeles County Superior Court on August 27, 23 2025. (Id. at 2). The Fox Defendants removed the case to this Court on the same day, 24 before Plaintiff had served any of the Defendants. (ECF No. 1). Plaintiff ultimately served 25 the Individual Defendants on October 7, 2025. (ECF Nos. 20, 21, 22, 23). Plaintiff filed 26 the instant Motion on September 26, 2025, arguing that the Fox Defendants improperly 27 removed this case in violation of the forum defendant rule. (Mot.). The Fox Defendants 28 filed an opposition on October 15, 2025, (ECF No. 25 (“Opposition”)), along with a request 1 for judicial notice, (ECF No. 26 (“RJN”)). Plaintiff replied in support of the Motion on

2 October 22, 2025. (ECF No. 28 (“Reply”)). The Individual Defendants have not
3 participated in briefing on this Motion.

4 II. LEGAL STANDARD

5 Federal courts are courts of limited jurisdiction, with subject-matter jurisdiction 6 only over matters authorized by the Constitution and statute. *Kokkonen v. Guardian Life 7 Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). A suit filed in state court may be removed to 8 federal court if the federal court would have had original jurisdiction over the suit. 28 9 U.S.C. § 1441(a). Federal courts have original jurisdiction where an action presents a 10 federal question under 28 U.S.C. § 1331 or there is diversity jurisdiction under 28 U.S.C. 11 § 1332. Courts have diversity jurisdiction over cases where there is complete diversity of 12 parties and the amount “in controversy exceeds the sum or value of \$75,000, exclusive of 13 interest and costs.” 28 U.S.C. § 1332(a). 14 A defendant may remove an action to federal court based on diversity jurisdiction 15 “provided that no defendant ‘is a citizen of the State in which such action is brought.’” 16 *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 68 (1996) (quoting 28 U.S.C. § 1441(b)); see also 17 *Abrego Abrego v. The Dow Chem. Co.*, 443 F.3d 676, 679 (9th Cir. 2006) (“the presence 18 in the action of a single plaintiff from the same State as a single defendant deprives the 19 district court of original diversity jurisdiction over the entire action.” (citation omitted)). 20 An individual is a citizen of the state where he or she is domiciled, meaning the state where 21 the individual resides and intends to remain or to which the individual intends to return. 22 *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001). 23 The removal statute is strictly construed against removal jurisdiction. See *Shamrock 24 Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 108–09 (1941). There is a “strong presumption” 25 against removal, and “[f]ederal jurisdiction must be rejected if there is any doubt as to the 26 right of removal in the first instance.” *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir.

27 1992). “The presumption against removal means that ‘the defendant always has the burden 28 of establishing that removal is proper.’” *Moore-Thomas v. Alaska Airlines, Inc.*, 553 F.3d 1 1241, 1244 (9th Cir. 2009) (quoting *Gaus*, 980 F.2d at 566). Courts resolve any doubt 2 about the right of removal in favor of remand. *Grancare, LLC v. Thrower by & through 3 Mills*, 889 F.3d 543, 550 (9th Cir. 2018).

4 III. DISCUSSION

5 A. Request for Judicial Notice 6 As a preliminary matter, the Fox Defendants request that the Court take judicial 7 notice of two documents: (1) a “Charge of Discrimination” filed by Plaintiff on October 6, 8 2023, with the Equal Employment Opportunity Commission and the New York State 9 Division of Human Rights; and (2) a complaint filed by Plaintiff in the New York State 10 Supreme Court on July 22, 2024. (RJN at 2). Plaintiff has not opposed the request for 11 judicial notice. 12 Judicial notice under Federal Rule of Evidence 201 authorizes courts to notice an 13 adjudicative fact if it is “not subject to reasonable dispute.” Fed. R. Evid. 201(b). A fact 14 is “not subject to reasonable dispute” if it is “generally known” or “can be accurately and 15 readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. 16 R. Evid. 201(b)(1), (2). Accordingly, “[a] court may take judicial notice of matters of 17 public record without converting a motion to dismiss into a motion for summary 18 judgment.” *Lee*, 250 F.3d at 689 (internal quotation marks and citation omitted). A court, 19 however, may not “take judicial notice of disputed facts contained in such public records.” 20 *Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 999 (9th Cir. 2018). 21 The Court may take judicial notice of the requested documents as public records, 22 whose veracity can be readily determined. The Fox Defendants cite to these documents to 23 show that Plaintiff previously stated that he is a citizen of Washington and that his previous 24 complaint asserted similar claims to the instant Complaint but did not name the Individual 25 Defendants. See (Opp. at 9, 11). Plaintiff does not dispute these assertions. Accordingly, 26 the Court will assume that these facts are undisputed and will take notice of the fact that 27 Plaintiff is domiciled in Washington and that he previously asserted similar claims in New 28 York state court without including the Individual Defendants. 1 B. Motion to Remand 2 Turning to the Motion, Plaintiff argues that removal of this action is barred by the 3 “forum defendant rule” because all the Individual Defendants are citizens of California. 4 (Mot. at 8). Under the forum defendant rule, a “civil action otherwise removeable solely 5 on the basis of [diversity jurisdiction] may not be removed if any of the parties in interest 6 properly joined and served as defendants is a citizen of the State in which such action is 7 brought.” 28 U.S.C. § 1441(b)(2). This rule “confines removal on the basis of diversity 8 jurisdiction to instances where no defendant is a citizen of the forum state.” *Lively v. Wild 9 Oats Mkts., Inc.*, 456 F.3d 933, 939 (9th Cir. 2006). Plaintiff argues that the Fox 10 Defendants’ “snap removal” of this case before service on the Individual Defendants was 11 improper and should not defeat the application of the forum defendant rule. (Mot. at 11- 12 19). 13 In their Opposition, the Fox Defendants argue that, because this case was removed 14 before service, the Individual

Defendants were not “properly joined and served as 15 defendants” prior to removal, such that the forum defendant rule does not apply. (Opp. at 16 16-23). Alternatively, the Fox Defendants argue that the Individual Defendants have been 17 fraudulently joined, such that their citizenship should be discounted in assessing removal 18 jurisdiction. (Id. at 12-16). Specifically, the Fox Defendants argue that the claims against 19 the Individual Defendants are barred by the statute of limitations; that the claims are 20 preempted by the California Workers’ Compensation Act; and that the claims are meritless. 21 (Id.). 22 As detailed below, the Court agrees with the Fox Defendants that the claims against 23 the Individual Defendants are barred by the statute of limitations. Excluding the Individual 24 Defendants from the jurisdictional calculation, removal of this action was proper. In so 25 concluding, the Court does not reach the parties’ other arguments about fraudulent joinder 26 or snap removal. 27 28

1. Fraudulent Joinder 2 Under the doctrine of fraudulent joinder, “courts may disregard the citizenship of a 3 non-diverse defendant who has been fraudulently joined.” *Grancare, LLC*, 889 F.3d at 4 548. A defendant may establish fraudulent joinder by showing either “(1) actual fraud in 5 the pleading of jurisdictional facts, or (2) inability of the plaintiff to establish a cause of 6 action against the non-diverse party in state court.” *Hunter v. Philip Morris USA*, 582 F.3d 7 1039, 1044 (9th Cir. 2009). Under the second approach, a removing defendant must show 8 not only that the plaintiff has failed to state a claim but also that the “failure is obvious 9 according to the settled rules of the state.” *Hamilton Materials, Inc. v. Dow Chem. Corp.*, 10 494 F.3d 1203, 1206 (9th Cir. 2007). “A defendant invoking federal diversity jurisdiction 11 on the basis of fraudulent joinder bears a heavy burden since there is a general presumption 12 against finding fraudulent joinder.” *Grancare, LLC*, 889 F.3d at 548 (internal quotation 13 marks, citation, and alterations omitted). 14 As an initial matter, while neither party raises any argument to this effect, the Court 15 notes that there is some disagreement among district courts as to the applicability of the 16 fraudulent joinder doctrine to situations, like this one, where the presence of a defendant 17 “triggers the forum defendant rule but does not compromise the parties’ complete 18 diversity.”¹ *Morris v. Nuzzo*, 718 F.3d 660, 666 (7th Cir. 2013) (noting that “[t]he few 19 district courts that have decided the issue are split” and stating that “[i]t does not appear 20 that any court of appeals has answered this question”). Notwithstanding the contrary 21 position taken by some district courts, the Court is of the opinion that the doctrine is 22 applicable in these circumstances for two reasons. First, the plain language of the forum 23 defendant rule states that it applies only where “any of the parties in interest properly joined 24 and served as defendants is a citizen of the State in which such action is brought.” 25 26

1 Based on the Parties’ representations, Plaintiff is a Washington citizen, the Individual 27 Defendants are California citizens, and the Fox Defendants are Delaware corporations with 28 their principal place of business in New York. There is therefore complete diversity of citizenship regardless of whether the Individual Defendants are included in the calculus. 1 U.S.C. § 1441(b)(2) (emphasis added). If a defendant has been fraudulently joined such 2 that “there is no possibility that a state court would find that the complaint states a cause 3 of action against a particular defendant, then that defendant should not

be considered to have been ‘properly joined’” within the meaning of § 1441(b)(2). *Ekeya v. Shriners Hosp. for Children*, Portland, 258 F. Supp. 3d 1192, 1200-01 (D. Or. 2017); see also *Brazell v. Waite*, 525 F. App’x 878, 884 (10th Cir. 2013) (stating in dicta that the court had “serious doubt” that a fraudulently joined defendant “could be considered a ‘part[y] in interest properly joined’ as a defendant”). Second, applying the fraudulent joinder doctrine here is consistent with the purpose of diversity jurisdiction and the forum defendant rule. As the Ninth Circuit has explained, the purpose of the forum defendant rule is tied to the purpose of diversity jurisdiction, which is to “protect out-of-state defendants from possible prejudices in state court.” *Lively*, 456 F.3d at 940. Where a defendant is a resident of the forum state, “the need for such protection is absent,” and the “forum defendant rule allows the plaintiff to regain some control over forum selection.” *Id.* Conversely, where the forum defendant is fraudulently joined, such that they are all but certain to be dismissed from the action, remanding to state court would leave the remaining out-of-state defendants as the only defendants for purposes of trial—“the precise risk of prejudice that removal was intended to prevent.” *Ekeya*, 258 F. Supp. 3d at 1199. Accordingly, the Court concludes that the fraudulent joinder doctrine creates an exception to the forum defendant rule. Turning now to the parties’ arguments, the Fox Defendants raise, among other arguments, the contention that Plaintiff’s claims against the Individual Defendants are barred by the statute of limitations. (Opp. at 13). The Ninth Circuit has held that the doctrine of fraudulent joinder is applicable “where a defendant demonstrates that a plaintiff is barred by the statute of limitations from bringing claims against that defendant.” *Grancare, LLC*, 889 F.3d at 548. For example, in *Ritchey v. Upjohn Drug Co.*, the plaintiff asserted claims against a diverse corporate defendant and two non-diverse individual defendants employed by the corporation, and the corporate defendant removed the action to federal court. 139 F.3d 1313, 1315 (9th Cir. 1998). On appeal from the district court’s denial of a motion to remand and subsequent dismissal of the action as time-barred, the Ninth Circuit held that, because the action was brought outside the statute of limitations, “under California law no cause of action was stated” against the individual defendants. *Id.* at 1320. “That being so,” the Ninth Circuit concluded that the individual defendants “were fraudulently joined for diversity and removal purposes” and the denial of remand was proper. *Id.* The same is true here. Under California law,² “a cause of action accrues at the time when the cause of action is complete with all of its elements.” *Fox v. Ethicon Endo-Surgery, Inc.*, 35 Cal. 4th 797, 806 (2005) (internal quotation marks and citation omitted). Here, Plaintiff’s only claims against the Individual Defendants are for intentional infliction of emotional distress and negligent infliction of emotional distress, (Compl. at 21-23), both of which are governed by a two-year statute of limitations. See Cal. Code Civ. Proc. § 335.1 (two-year statute of limitations for claims based on “injury to . . . an individual caused by the wrongful act or neglect of another”); see also *Wassmann v. S. Orange Cnty. Cmty. Coll. Dist.*, 24 Cal. App. 5th 825, 852-53 (2018) (“Intentional infliction of emotional distress has a two-year statute of limitations.”); *Miller v.*

Bank of Am., Nat'l Ass'n, 858 F.

17 Supp. 2d 1118, 1127 (S.D. Cal. 2012) (“In California, intentional and negligent infliction
18 of emotional distress claims have a two-year statute of limitations.”). 19 The most recent event
identified in the Complaint is the July 21, 2023, termination 20 of Plaintiff. (Compl. ¶ 53).
Plaintiff does not allege that he had any further contact with 21 the Individual Defendants
following his termination that could form the basis for his tort 22 claims. By this date, Plaintiff’s
claims against the Individual Defendants must have 23 accrued because all alleged wrongdoing
occurred before that date, causing harm that 24 occurred on that date. In other words, the claims
were complete with all of their “elements” 25 because Plaintiff had already suffered the requisite
“generic elements of wrongdoing, 26 27 2 State law supplies the applicable statute of limitations
for “a federal diversity action 28 brought under state law.” *Bancorp Leasing & Fin. Corp. v.*
Agusta Aviation Corp., 813 F.2d 272, 274 (9th Cir. 1987). 1 causation, and harm” as of July 21,
2023. *Fox*, 35 Cal. 4th at 807 (internal quotation marks 2 and citation omitted). Plaintiff did not
initiate this action until August 27, 2025—more 3 than two years after the accrual of these claims.
Therefore, Plaintiff’s claims against the 4 Individual Defendants are barred by the statute of
limitations unless an exception applies. 5 “To align the actual application of the limitations defense
more closely with the 6 policy goals animating it,” California courts have recognized various
equitable exceptions 7 to the statute of limitations. *Aryeh v. Canon Bus. Sols., Inc.*, 55 Cal. 4th
1185, 1192 (2013). 8 The “most important” of these exceptions is the “discovery rule,” which
“postpones accrual 9 of a cause of action until the plaintiff discovers, or has reason to discover, the
cause of 10 action.” *Id.* (internal quotation marks and citation omitted). While the party asserting a
11 statute of limitations defense “bears the initial burden of proving” the defense, 12 “[t]hereafter,
the burden shifts to [the opposing party] to demonstrate his claims survive 13 based on one or
more nonstatutory exceptions to the basic limitations period.” *Id.* at 1197. 14 Plaintiff has made no
attempt to invoke any of the recognized exceptions to the 15 statute of limitations, nor do any
exceptions appear applicable from the record. The 16 discovery rule, for example, does not appear
applicable because Plaintiff “ha[d] reason at 17 least to suspect a factual basis” for his claims at
the time of his termination. *Fox*, 35 Cal. 18 4th at 807 (citation omitted). The discovery rule
charges plaintiffs with “presumptive 19 knowledge of an injury if they have information of
circumstances to put them on inquiry 20 or if they have the opportunity to obtain knowledge from
sources open to their 21 investigation.” *Id.* at 808 (internal quotation marks, citation, and
alterations omitted). 22 Given that Plaintiff’s claims are based on his personal interactions with the
Individual 23 Defendants culminating in his termination, he had more than sufficient opportunity
to learn 24 of the basis for his claims within the two-year statute of limitations. Ultimately, under
25 California law, Plaintiff bears the burden of demonstrating that an exception to the statute 26 of
limitations applies. Because this action was brought after the statute of limitations 27 period, and
because Plaintiff has failed to identify any basis on which a court could find 28 the statute of
limitations was tolled, Plaintiff’s failure to state a claim against the Individual 1 Defendants is

“obvious according to the settled rules of the state.” *Hamilton Materials, 2 Inc.*, 494 F.3d at 1206; see *Ritchey*, 139 F.3d at 1320 (concluding that “no cause of action 3 was stated” where statute of limitations had “clearly run”). 4 Instead of arguing for an applicable exception, Plaintiff argues that it is improper for 5 the Court to determine the applicability of the statute of limitations defense at this stage. 6 (Reply at 6). However, this argument is contrary to Ninth Circuit case law, which has 7 repeatedly recognized that the statute of limitations may properly be raised as part of a 8 fraudulent joinder argument in opposition to a motion to remand. See, e.g., *Grancare, 9 LLC*, 889 F.3d at 548; *Hunter*, 582 F.3d at 1045; *Hamilton Materials*, 494 F.3d at 1206; 10 *Ritchey*, 139 F.3d at 1318-20; *Herriot v. Sanofi-Aventis U.S. LLC*, 776 F. App’x 448, 449 11 (9th Cir. 2019). The Ninth Circuit has specifically distinguished between a statute of 12 limitations defense and other affirmative defenses, such as an implied preemption defense, 13 that would “require[] a searching inquiry into the merits of the plaintiff’s case.” *Grancare, 14 LLC*, 889 F.3d at 548-49. As the *Ritchey* court explained, “a defendant must have the 15 opportunity to show that the individuals joined in the action cannot be liable on any theory.” 16 *Ritchey*, 139 F.3d at 1318. This is consistent with the general principle that “[t]he 17 defendant seeking removal to the federal court is entitled to present the facts showing the 18 joinder to be fraudulent.” *McCabe v. Gen. Foods Corp.*, 811 F.2d 1336, 1339 (9th Cir. 19 1987); see also *Morris v. Princess Cruise, Inc.*, 236 F.3d 1061, 1068 (9th Cir. 2001) 20 (“[F]raudulent joinder claims may be resolved by ‘piercing the pleadings’ and considering 21 summary judgment-type evidence such as affidavits and deposition testimony.” (quoting 22 *Cavallini v. State Farm Mut. Auto Ins. Co.*, 44 F.3d 256, 263 (5th Cir. 1995))). Accordingly, 23 the Court may properly assess the statute of limitations defense on the record here. 24 For the reasons discussed above, the Court concludes that Plaintiff’s claims against 25 the Individual Defendants are barred by the statute of limitations. Under such 26 circumstances, the Individual Defendants are deemed “sham defendants for purposes of 27 removal,” and their citizenship must be discounted. *Ritchey*, 139 F.3d at 1320. Setting 28 1 || aside the Individual Defendants, Plaintiff cannot show any violation of the forum defendant 2 ||rule.* Accordingly, the Court DENIES the Motion to Remand.

3 CONCLUSION

4 For the foregoing reasons, the Court DENIES the Motion. Consistent with the 5 ||Court’s prior orders granting the Parties’ stipulations, (ECF Nos. 14, 27), Defendants’ 6 || deadline to move, plead, or otherwise respond to Plaintiff’s Complaint will be thirty (30) 7 || days after the entry of this Order. 8 IT IS SO ORDERED. 9 10 || DATED: November 21, 2025 Spe □ 11 □

D UNITED STATES DISTRICT JUDGE

13 14 15 16 17 18 19 20 21 || ———_ 7 3 In the context of his arguments about snap removal, Plaintiff also argues that removal was procedurally defective, in violation of 28 U.S.C. § 1446(b) (1), because it occurred 23 before service. (Mot. at 16-19). To the extent that the Court needs to reach this argument, 74 ||the Court disagrees that removal was procedurally improper on this basis. See *Mayes v. Am. Hallmark Ins. Co. of Tex.*, 114 F.4th 1077, 1079 (9th Cir. 2024) (“The plain text

of 25 1446(b)(1) sets a deadline for removal, not a ‘window’ for removal. Nothing in the 26 || statute’s text can be construed as barring a defendant from filing a notice of removal before 57 formal service.”). In so concluding, the Court does not decide the merits of the parties’ other arguments about snap removal or the Fox Defendants’ other arguments as to 28 || fraudulent joinder.

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