

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

Mayra Aragon v. FCA US, LLC, et al.

Aragon v. FCA US LLC · No. 2:24-cv-10089-FLA (JPRx) · Decided March 12, 2025

OPINION

Mayra Aragon v. FCA US LLC

PER CURIAM.

1 JS-6 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 CENTRAL DISTRICT OF CALIFORNIA

10 11 | MAYRA ARAGON, Case No. 2:24-cv-10089-FLA (JPRx) 12 Plaintiff, ORDER
REMANDING ACTION FOR

13 V. LACK OF SUBJECT MATTER

14 JURISDICTION [DKT. 12]

15 | FCA US, LLC, et al., 16 Defendants. 17

18 RULING

19 On July 31, 2024, Plaintiff Mayra Aragon (“Plaintiff”) filed the Complaint in 20 the Los
Angeles County Superior Court, asserting against Defendant FCA US, LLC 21 (“Defendant” or
“FCA”) four causes of action for violations of the California Song- 22 Beverly Consumer
Warranty Act (the “Song-Beverly Act”), Cal. Civ. Code § 1790, et 23 seq. Dkt. 1-2 §§ 36-54. As
relevant here, Plaintiff seeks actual damages, civil 24 penalties, and attorney’s fees. Id. at 11.) 25
26 ! The court cites documents by the page numbers added by the court’s CM/ECF 28 System
rather than any page numbers included natively.] 1 On November 21, 2024, Defendant removed
the action to this court, alleging 2 the existence of diversity jurisdiction under 28 U.S.C. § 1332(a)
(1). Dkt. 1 at 4–7. 3 On February 4, 2025, the court ordered the parties to show cause (“OSC”)
why the 4 action should not be remanded for lack of subject matter jurisdiction due to an 5
insufficient amount in controversy. Dkt. 12. Defendant filed a response on February 6 18, 2025.
Dkt. 13 (“Def. Resp.”). Plaintiff filed a response on February 19, 2025.

7 Dkt. 15.

8 Having reviewed and considered the Notice of Removal and the parties’ 9 responses to the OSC,
the court finds Defendant fails to establish subject matter 10 jurisdiction by a preponderance of
the evidence and REMANDS this action to the Los 11 Angeles County Superior Court.

12 DISCUSSION

13 Federal courts are courts of “limited jurisdiction,” possessing “only that power 14 authorized
by [the] Constitution and statute, which is not to be expanded by judicial 15 decree.” Kokkonen v.

Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994) 16 (citations omitted); U.S. Const. art. III, § 2, cl. 1. District courts are presumed to lack 17 jurisdiction unless the contrary appears affirmatively from the record. 18 DaimlerChrysler Corp. v. Cuno, 547 U.S. 332, 342 n. 3 (2006). Additionally, federal 19 courts have an obligation to examine jurisdiction sua sponte before proceeding to the 20 merits of a case. See Ruhrgas AG v. Marathon Oil Co., 526 U.S. 574, 583 (1999). 21 Federal courts have jurisdiction where an action arises under federal law or 22 where each plaintiff’s citizenship is diverse from each defendant’s citizenship and the 23 amount in controversy exceeds \$75,000, exclusive of interest and costs. 28 U.S.C. 24 §§ 1331, 1332(a). Thus, a notice removing an action from state court to federal court 25 must include “a plausible allegation that the amount in controversy exceeds the 26 jurisdictional threshold.” Dart Cherokee Basin Operating Co. v. Owens, 574 U.S. 81, 27 89 (2014). Where “the plaintiff contests, or the court questions, the defendant’s 28 allegation” concerning the amount in controversy, “both sides [shall] submit proof,” 1 and the court may then decide whether the defendant has proven the amount in 2 controversy “by a preponderance of the evidence.” Id. at 88–89. As the removing 3 party, Defendant bears the burden justifying this court’s exercise of jurisdiction. Gaus 4 v. Miles, Inc., 980 F.2d 564, 567 (9th Cir. 1992). “Federal jurisdiction must be 5 rejected if there is any doubt as to the right of removal in the first instance.” Id. at 6 566. 7 A. Actual Damages 8 At issue here is whether the amount in controversy exceeds the \$75,000 9 jurisdictional minimum for diversity jurisdiction. Under the Song-Beverly Act, a 10 plaintiff may recover “in an amount equal to the actual price paid or payable by the 11 buyer,” reduced by “that amount directly attributable to use by the buyer prior to the 12 time the buyer first delivered the vehicle to the manufacturer or distributor, or its 13 authorized service and repair facility for correction of the problem that gave rise to the 14 nonconformity.” Cal. Civ. Code § 1793.2(d)(2)(B)–(C). This includes a mileage 15 offset, which is calculated by reducing the purchase price by an amount directly 16 proportional to the number of miles driven. Id. § 1793.2(d)(2)(C). 17 Defendant states the Retail Installment Sale Contract (“RISC”) indicated a 18 Total Sale Price of \$52,661.28 for the subject vehicle. Def. Resp. at 5. While the 19 Song-Beverly Act allows a plaintiff to recover the full purchase price of a car, this 20 amount should be reduced to account for any use by plaintiff prior to the first repair of 21 the vehicle. Sanchez v. Ford Motor Co., Case No. 2:18-cv-08023-RGK (SKx), 2018 22 WL 6787354, at *1 (C.D. Cal. Dec. 4, 2018) (remanding case when defendant failed 23 to account for use of the vehicle via a mileage offset). Nevertheless, for purposes of 24 this Order, the court assumes, without making any related legal or factual 25 determinations, that the actual damages Plaintiff might recover in this action are 26 \$52,661.28. 27 / / / 28 / / / 1 B. Civil Penalties 2 Defendant next argues Plaintiff’s request for civil penalties of twice the base 3 amount of damages must be included in the amount in controversy calculation. Def.

4 Resp. at 6. “A plaintiff who establishes that a violation of the Song-Beverly Act was 5 willful may recover a civil penalty of up to two times the amount of actual damages.” 6 Estrada v. FCA US LLC, Case No. 2:20-cv-10453-PA (JPRx), 2021 WL 223249, 7 at *3 (C.D. Cal. Jan.

21, 2021) (citing Cal. Civ. Code § 1794(c)) (brackets omitted). 8 However, “[t]he civil penalty under California Civil Code § 1794(c) cannot simply be 9 assumed.” *Pennon v. Subaru of Am., Inc.*, Case No. 2:22-cv-03015-SB (RAOx), 2022 WL 2208578, at *2 (C.D. Cal. June 17, 2022) (remanding action where defendant 11 provided no specific argument or evidence for including a civil penalty in the amount 12 in controversy) (quotation marks omitted). 13 District courts regularly find Song-Beverly Act plaintiffs’ conclusory 14 allegations regarding willfulness are insufficient to place civil penalties in controversy 15 absent specific facts pleaded. See *Estrada*, 2021 WL 223249, at *3 (collecting cases 16 “remanding where civil penalties were too speculative for inclusion in the amount-in- 17 controversy”) (quotation marks omitted). This is because “[s]imply assuming a civil 18 penalty award is inconsistent with the principle that the defendant must provide 19 evidence that it is more likely than not that the amount in controversy requirement is 20 satisfied.” *Makol v. Jaguar Land Rover N. Am., LLC*, Case No. 5:18-cv-03414-NC, 2018 WL 3194424, at *3 (N.D. Cal. June 28, 2018) (internal quotation marks 22 removed); see also *Khachatryan v. BMW of N. Am., LLC*, Case No. 2:21-cv-01290- 23 PA (PDx), 2021 WL 927266, at *2 (C.D. Cal. Mar. 10, 2021). 24 Defendant does not identify any specific facts or evidence to establish why 25 Plaintiff is reasonably likely to recover civil penalties under the Song-Beverly Act. 26 See Def. Resp. at 6. Defendant also fails to prove it is reasonable to double the 27 amount of actual damages in arriving at the size of a likely award. See *Pennon*, 2021 WL 2208578, at *2. The court, therefore, finds Defendant’s inclusion of civil 1 penalties to establish the amount in controversy is too speculative for inclusion in the 2 court’s amount in controversy calculation. 3 C. Attorney’s Fees 4 Finally, Defendant contends Plaintiff’s demand for attorney’s fees provides an 5 additional reason for the court to determine the amount in controversy satisfies the 6 jurisdictional minimum. Def. Resp. at 8–9. In the Ninth Circuit, attorney’s fees 7 awarded under fee-shifting statutes may be considered in assessing the jurisdictional 8 threshold. *Gonzales v. CarMax Auto Superstores, LLC*, 840 F.3d 644, 648–49 9 (9th Cir. 2016). A removing defendant, however, must “prove that the amount in 10 controversy (including attorneys’ fees) exceeds the jurisdictional threshold by a 11 preponderance of the evidence ... with summary-judgment-type evidence.” *Fritsch v. 12 Swift Transp. Co. of Ariz., LLC*, 899 F.3d 785, 795 (9th Cir. 2018). “A district court 13 may reject the defendant’s attempts to include future attorneys’ fees in the amount in 14 controversy if the defendant fails to satisfy this burden of proof.” *Id.* 15 “While a defendant may meet its burden to establish a reasonable estimate of 16 attorneys’ fees by identifying awards in other cases, those cases must be similar 17 enough to the case at hand that the court can conclude that it is more likely than not 18 that the plaintiff may incur a similar fee award.” *Kaplan v. BMW of N. Am., LLC*, 19 Case No. 3:21-cv-00857-TWR (AGS), 2021 WL 4352340, at *6 (S.D. Cal. Sept. 24, 2021); see also *D’Amico v. Ford Motor Co.*, Case No. 2:20-cv-02985-CJC (JCx), 2020 WL 2614610, at *4 (C.D. Cal. May 21, 2020) (recognizing “many cases alleging 22 violations of the [Song-Beverly] Act settle early”). Moreover, a defendant fails to 23 show attorney’s fees are part of the amount in

controversy where it “makes no effort 24 to explain what amount of attorney fees might be sought or awarded in this case, 25 neglecting to include so much as an estimate of the hours or billing rates that might 26 apply.” Vega v. FCA US, LLC, Case No. 2:21-cv-05128-VAP (MRWx), 2021 WL 27 3771795, at *4 (C.D. Cal. Aug. 25, 2021). 28 / / / 1 Defendant does not provide or substantiate a reasonable lodestar estimate for a 2 | potential attorney’s fee award in this action and argues instead that courts routinely 3 | award attorney’s fees in excess of \$50,000 in Song-Beverly Act cases. Def. Resp. at 4 | 8-9. Although Defendant identifies specific decisions where courts awarded 5 | attorney’s fees sufficient to bring the amount in controversy above the jurisdictional 6 | minimum, Defendant fails to explain how the specific facts of this case are analogous 7 || to cases where courts awarded such attorney’s fees. See id. That this action also 8 | involves claims under the Song-Beverly Act is alone insufficient to establish that the 9 | same amount of attorney’s fees is at issue here. 10 It is Defendant’s burden to show, by a preponderance of the evidence, that at 11 least \$22,338.72 in attorney’s fees are in controversy. Given that the removal statute 12 | is construed strictly and all doubts are resolved in favor of remand, the court finds 13 | Defendant has failed to demonstrate the amount in controversy exceeds the 14 | jurisdictional minimum based on attorney’s fees.

15 CONCLUSION

16 For the aforementioned reasons, the court finds Defendant has failed to 17 | demonstrate the amount in controversy exceeds \$75,000, as required to establish 18 | diversity jurisdiction. The court, therefore, REMANDS the action to the Los Angeles 19 | County Superior Court, Case No. 24STCV19147. All dates and deadlines in this 20 | court are VACATED. The clerk of the court shall close the action administratively. 21 22 IT IS SO ORDERED. 23 24 | Dated: March 12, 2025
25 FERN L. AENLLE-ROCHA

United States District Judge 26 27 28