

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Carroll v. Ameri-Force Craft Services, Inc.

Carroll · No. 24-cv-1443-RSH-DTF · Decided September 11, 2025

SUMMARY

The United States District Court for the Southern District of California denied Plaintiff Marion J. Carroll’s motion to remand a putative wage-and-hour class action to California state court. The court held that Defendants sufficiently established the amount-in-controversy requirement for jurisdiction under the Class Action Fairness Act and that the local controversy exception did not apply because similar class actions had been filed within the preceding three years. The court also rejected Plaintiff’s argument concerning federal jurisdiction over the restitution claim.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 MARION J. CARROLL, an individual Case No.: 24-cv-1443-RSH-DTF
and on behalf of all others similarly 12 situated, ORDER DENYING PLAINTIFF’S 13 MOTION
TO REMAND Plaintiff, 14 v. [ECF No. 22] 15 16 AMERI-FORCE CRAFT SERVICES, 17 INC.,
et. al., 18 Defendant. 19 20 Pending before the Court is Plaintiff’s motion to remand the action to
state court.

21 ECF No. 22. The motion is fully briefed. ECF Nos. 24-26. As set forth below, the Court 22
denies the motion. 23 I. BACKGROUND 24 On June 6, 2024, plaintiff Marion J. Carroll filed this
wage and hour putative class 25 action in the California Superior Court for the County of San
Diego against defendants 26 Ameri-Force Craft Services, Inc. (“Ameri-Force”); National Steel
and Shipbuilding Co. 27 (“NASSCO”); and Misael Vidama.

ECF No. 1-2. The Complaint alleges that Plaintiff 28 worked for Defendants as a non-exempt
employee from August 2023 through May 2024. 1 Id. ¶ 2. She seeks to represent a class of “all
current and former non-exempt employees of 2 Defendants within the State of California at any
time commencing four (4) years preceding 3 the filing of Plaintiff’s complaint up until the time
that notice of the class action is provided 4 to the class.” Id. ¶ 28.

The Complaint brings claims for: (1) failure to pay overtime; (2) 5 failure to pay minimum wages;
(3) failure to provide meal periods; (4) failure to provide 6 rest periods; (5) failure to pay wages
due upon separation; (6) failure to provide accurate 7 wage statements; (7) failure to timely pay
wages during employment; (8) violation of 8 California Labor Code § 2802, requiring
reimbursement for certain employee expenses; 9 (9) violation of California Labor Code § 227.3,

requirement payment of vested vacation 10 time upon termination; and (10) failure to provide paid sick leave, in violation of California 11 Business & Professions Code § 17200 and the Healthy Workplace Healthy Families Act 12 of 2014, codified at California Labor Code § 245 et seq.

13 On August 14, 2024, Ameri-Force removed the action to this Court pursuant to the 14 removal provision in the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d). ECF 15 No. 1. 16 On September 10, 2024, pursuant to a joint motion by the Parties, the Court stayed 17 the action to allow the Parties to pursue mediation. ECF No. 11.

After the Parties advised 18 that they were unable to reach a settlement, the Court lifted the stay on May 27, 2025. ECF 19 No. 20. 20 On July 10, 2025, Ameri-Force filed its motion to remand. ECF No. 22. NASSCO 21 has joined in the motion. ECF No. 25. 22 II. LEGAL STANDARD 23 The Class Action Fairness Act “provides the federal district courts with ‘original 24 jurisdiction’ to hear a ‘class action’ if the class has more than 100 members, the parties are 25 minimally diverse, and the “matter in controversy exceeds the sum or value of \$5,000,000.” 26 Standard Fire Ins.

Co. v. Knowles, 568 U.S. 588, 592 (2013) (quoting 28 U.S.C. §§ 27 1332(d)(2), (5)(B)). “The burden of establishing removal jurisdiction, even in CAFA cases, 28 lies with the defendant seeking removal.” Wash. State v. Chimei Innolux Corp., 659 F.3d 1 842, 847 (9th Cir. 2011). “[N]o antiremoval presumption attends cases invoking CAFA.” 2 Dart Cherokee Basin Operating Co., LLC v. Owens, 574 U.S. 81, 83 (2014).

3 III. ANALYSIS 4 A. Amount in Controversy 5 1. Generally 6 Plaintiff first argues that Defendants have failed to satisfy the amount-in-controversy 7 requirement under CAFA. ECF No. 22 at 8. To satisfy that requirement, “a removing party 8 must initially file a notice of removal that includes ‘a plausible allegation that the amount 9 in controversy exceeds the jurisdictional threshold.’” LaCross v. Knight Transp.

Inc., 775 10 F.3d 1200, 1202 (9th Cir. 2015) (quoting Dart Cherokee, 574 U.S. at 89). “[T]he defendant 11 seeking removal bears the burden of proof to establish by a preponderance of the evidence 12 that the amount-in-controversy requirement is satisfied.” Id. 13 “Generally, the sum claimed by the plaintiff controls if the claim is apparently made 14 in good faith.” Lewis, 627 F.3d at 399 (internal quotation marks omitted). “Similarly, when 15 a defendant seeks federal-court adjudication, the defendant’s amount-in-controversy 16 allegation should be accepted when not contested by the plaintiff or questioned by the 17 court.” Dart Cherokee, 574 U.S. at 87.

However, “if the plaintiff contests the defendant’s 18 allegation... both sides submit proof and the court decides, by a preponderance of the 19 evidence, whether the amount-in-controversy requirement has been satisfied.” Id. at 88. 20 “Because the Court evaluates a challenged amount-in-controversy estimate under 21 the preponderance of the evidence standard, the defendant need

only establish ‘that the 22 potential damage could exceed the jurisdictional amount.’” Campbell, 2025 WL 720188, 23 at *3 (quoting *Rea v. Michaels Stores Inc.*, 742 F.3d 1234, 1239 (9th Cir.

2014)). “The 24 amount in controversy is simply an estimate of the total amount in dispute, not a 25 prospective assessment of defendant’s liability.” *Lewis v. Verizon Communs., Inc.*, 627 26 F.3d 395, 400 (9th Cir. 2010). 27 “While the defendant’s amount-in-controversy estimate must be grounded in the 28 plaintiff’s complaint, the parties’ additional evidence may include ‘affidavits or 1 declarations, or other summary-judgment-type evidence relevant to the amount-in- 2 controversy at the time of removal.’” *Campbell v. SkyWest Airlines, Inc.*, No. 3:24-CV- 3 2141 TWR (SBC), 2025 WL 720188, at *3 (S.D.

Cal. Mar. 6, 2025) (quoting *Ibarra v. 4 Manheim Invs., Inc.*, 775 F.3d 1193, 1197 (9th Cir. 2015)). Although the removing party 5 may rely “on a chain of reasoning that includes assumptions to satisfy its burden to prove 6 by a preponderance of the evidence that the amount in controversy exceeds \$5 million,” 7 the “reasoning and underlying assumptions” must be “reasonable.” *Jauregui v. Roadrunner 8 Transp.*

Servs., 28 F.4th 989, 993 (9th Cir. 2022) (internal quotation marks omitted). 9 “[I]n most wage and hour class actions, CAFA amount-in-controversy estimates are 10 premised on three variables: (1) the total number of possible violations; (2) the frequency 11 at which violations might have occurred; and (3) the potential cost associated with each 12 hypothetical violation.” *Salatino v. Am.*

Airlines, Inc., 719 F. Supp. 3d 1094, 1100 (S.D. 13 Cal. 2024). “Once each of these variables is assigned a value, the interplay between them 14 is relatively simple in most cases; the numbers need only be multiplied together.” *Id.* at 15 1101. 16 2. *Ameri-Force’s Methodology and Plaintiff’s Objections* 17 Here, the Complaint does not specify an amount in controversy.

For each of the first 18 eight causes of action, the Complaint alleges a period of time during which Defendants “at 19 times” violated the applicable labor laws. E.g., ECF No. 1-2 ¶ 48 (“For four (4) years prior 20 to the filing of the Complaint in this action through the present, Defendants failed, at times, 21 to accurately track and/or pay for all hours actually worked at their regular rate of pay that 22 is above the minimum wage to the detriment of Plaintiff and Class Members.”) (emphasis 23 added).1 For the fifth, sixth, and seventh claims, the Complaint also alleges that the 24 violations were pursuant to Defendants’ “policies and practices.” *Id.* ¶¶ 71, 78, 87.

For the 25 26 27 1 In the “factual background” section, the Complaint alleges that Defendants failed to pay overtime wages “to Plaintiff and Class Members, or some of them,” *id.* ¶ 16, and 28 1 ¶ ninth and tenth claims, the Complaint alleges that Defendants had a “consistent policy” of 2 ¶ violating the respective statutes. *Id.* §§ 100, 104.

The Complaint further alleges the 3 superiority of the class action over individual actions, on the grounds that class members 4 ||are entitled to recovery “by reason of Defendants’ policies and/or practices that have 5 ||resulted in the violation of the Labor Code at times, as set forth herein.” Jd. § 36. 6 Ameri-Force has submitted a declaration from its Chief Financial Officer, Lisa 7 || Boyd.

ECF No. 24-1. Ms. Boyd states that during the relevant period of June 6, 2020 (four 8 || years prior to the filing of this action) to August 14, 2024 (the date of removal), Ameri- 9 Force employed 767 employees within the State of California. Jd. 9] 3, 8. Ameri-Force 10 || pays its employees weekly. Jd. { 10. Ms. Boyd determined the number of weekly checks 11 ||that Ameri-Force issued during the relevant time period, the average hourly rate for each 12 || year during that time period, and the number of employees who were working for each of 13 ||those years.

Id. §§] 11-13. Ms. Boyd states that “nearly all” of the 767 Ameri-Force 14 || employees in California during the relevant time period worked 7.5 hours or more per day, 15 worked on average five days per week. Jd. § 15. Of the 767 employees, 59 received a 16 || paycheck in the week before the action was removed to federal court; the “vast majority” 17 || of the employees who did not receive a paycheck during that week are no longer employed 18 Ameri-Force.

Jd. § 15. Plaintiff has not challenged Ms. Boyd’s statements. 19 Based on the foregoing, Defendant has estimated the following amounts in 20 || controversy: 21 1 (overtime) Failure to pay one hour of overtime per week, for each | \$681,967.11 22 of the total weeks worked, based on an hourly rate of 23 \$23.74 (the average wage from 2020-24), from four years prior to filing of complaint through the date of removal 2 (minimum wage) Failure to pay one hour of minimum wage per week, for | \$563,039.40 25 each of the total weeks worked, based on the minimum wage of \$14.70 (the average minimum wage from 2020- 26 24), from four years prior to the filing of the complaint through the date of removal; multiplied by two for liquidated damages 28 1 3, 4 (meal and rest period) Failure to provide a meal and rest period (one each) per \$909, 289.48 week, for each of the total weeks worked, based on an 2 hourly rate of \$23.74, from four years prior to the filing of the complaint through the date of removal 3 5 (waiting time penalties) Failure to pay wages earned prior to separation, for 708 \$2,127,252.38 4 employees who have separated, based on an hourly rate of \$23.74, for 30 days at 7.5 hours per day, multiplied 5 by 0.75 (discounted based on assumption that one- quarter of the 708 employees may still be on the payroll), 6 multiplied by 0.75 (accounting for a three-year instead of four-year statute of limitations) 7 6 (wage statements) Failure to provide accurate wage statements for 50% of \$211,375.00 8 all pay periods for one year prior to the date of complaint through the date of removal, based on \$50 per initial 9 penalty per employee, followed by \$100 per subsequent penalty per employee 10 7 (timely wages) Failure to pay timely wages for 50% of all pay periods \$528,437.50 for one year prior to the date of complaint through the 11 date of removal, based on \$100 per initial penalty per 12 employee, followed by \$200 per subsequent penalty per employee, plus 25% of the amount

unlawfully withheld 13 8 (expense reimbursement) Failure to reimburse expenses of \$20 per month from \$31,368.75 three years prior to the date of complaint through the 14 date of removal, reduced by half based on 50% violation 15 rate 10 (paid sick leave) Failure to provide paid sick leave for 2020 through 2024, \$243,937.26 16 based on the number of persons employed each year, multiplied by the number of sick days provided by law 17 for each year (two paid sick days per year in 2020 and 2021, three in 2022 and 2023, and five in 2024), 18 multiplied by the average hourly rate for each year, 19 reduced by half based on 50% violation rate Subtotal \$5,296,666.88 20 Attorneys' fees Based on 25% of the subtotal \$1,324,166.72 Amount in controversy \$6,620,833.60 21 22 Plaintiff does not contest the arithmetic set forth above.

Instead, Plaintiff argues that 23 Defendants' assumptions—in particular, regarding the rate of alleged violations—are 24 unsupported and unreasonable. ECF No. 22 at 8-19; ECF No. 26 at 4-5. 25 3. Discussion 26 In a recent opinion not cited in Plaintiff's opening brief, the Ninth Circuit addressed 27 the reasonableness of assumptions in the context of determining the amount in controversy 28 1 What makes an assumption reasonable may depend on which element of the amount-in-controversy calculation is at issue.

For example, in a 2 wage-and-hour case, the number of employees in the class may be most 3 easily determined by examining the defendant's employment records. It therefore may make sense to expect a defendant to introduce evidence 4 of that number. See *Dudley v. Eli Lilly & Co.*, 778 F.3d 909, 917 (11th 5 Cir. 2014) (noting that a CAFA defendant has "access to its own employment records" and can provide information derived from those 6 records "without conceding liability or being unduly burdened").

By 7 contrast, it makes little sense to require a CAFA defendant to introduce evidence of the violation rate—really, the alleged violation rate— 8 because the defendant likely believes that the real rate is zero and thus 9 that the evidence does not exist.

For that reason, a CAFA defendant can most readily ascertain the violation rate by looking at the plaintiff's 10 complaint. 11 *Perez v. Rose Hill Co.*, 131 F.4th 804, 808 (9th Cir. 2025). The analysis used by the Ninth 12 Circuit in *Rose Hill* bears discussion here. 13 In *Rose Hill*, the complaint alleged—similar to the Complaint here—that the 14 defendant committed wage and hour violations "at times," without further quantifying a 15 violation rate.

131 F.4th at 806. Based on this allegation, the defendant "assumed that, 16 every week during the class period, it failed to pay all class members for one hour of regular 17 time, one hour of overtime, a one-hour compensable meal break, and a one-hour 18 compensable rest break." *Id.* at 806-07. Next, the defendant "used the minimum wage in 19 California during the class period to estimate a wage rate of \$14 for regular time (including 20 meal and rest periods) and \$21 for overtime." *Id.* at 807.

The defendant “then multiplied 21 the number of employees by the number of weekly violations per employee, the number of 22 weeks in the four-year period, and the wage rate to arrive at an amount in controversy.” Id. 23 The defendant separately estimated the amount in controversy for each count, “added an 24 assumption that [the plaintiff’s] attorneys would seek a 33 percent fee award,” and 25 proffered the grand total as the amount in controversy.

Id. 26 The district court determined that the defendant failed to provide an adequate basis 27 for the defendant’s assumptions regarding the violation rate, and concluded that the amount 28 1 in controversy requirement was not met. Id. The Ninth Circuit determined that the district 2 court’s analysis was flawed.

The Ninth Circuit explained: 3 It may be true that the phrase “at times” could support a lower violation rate as easily as it could support the violation rate that Rose Hills 4 assumed. But that does not automatically render the rate assumed by 5 Rose Hills unreasonable. And if Perez believed that some other assumption would have been more reasonable, she was free to propose 6 that rate.

(She was also free to use some more specific phrase than “at 7 times” when drafting the complaint; had she done so, she could have constrained the range of assumptions that Rose Hills could reasonably 8 adopt.) The district court could then have weighed the evidence and 9 arguments in deciding which assumption was more appropriate. 10 Id. at 810.

The Ninth Circuit vacated the remand order, and remanded to the district court 11 for further proceedings. Id. 12 Here, as in Rose Hill, it may be true that the phrase “‘at times’ could support a lower 13 violation rate as easily at it could support the violation rather than [Defendant] assumed.” 14 See id. But that does not render unreasonable Defendants’ proposed violation rates.

Here, 15 as in Rose Hill, “if [Plaintiff] believed that some other assumption would have been more 16 reasonable, she was free to propose that rate.” See id. But despite the guidance from the 17 Ninth Circuit in Rose Hill, quoted extensively in Defendants’ opposition brief, Plaintiff has 18 declined to propose some other rate of violation, choosing only to attack Defendants’ 19 methodology as unfounded.

20 The Court therefore considers, not whether the phrase “at times” could reasonably 21 support a lower violation rate than that proposed by Defendants, but whether the violation 22 rates assumed by Defendants here are unreasonable.

In the context of Plaintiff’s allegations 23 here and the employment data put forward by Defendants, the Court concludes that those 24 assumed violation rates are indeed reasonable. 25 Numerous district courts have concluded, reviewing complaints alleging violations 26 “at times” or using similar language, that an assumption of at least one violation per week 27 for various

wage and hour claims—such as for unpaid overtime, unpaid minimum wages, 28 1 and meal and rest period claims—was reasonable.

See, e.g., *Cabrera v. S. Valley Almond 2 Co., LLC*, No. 1:21-CV-00748-AWI-JLT, 2021 WL 5937585, at *8 (E.D. Cal. Dec. 16, 3 2021) (concluding that violation rates of one hour of unpaid overtime per week and one 4 hour of unpaid minimum wages per week were consistent with allegations that violations 5 occurred “at times” and “on occasion”); *Bonetti v. TriStruX LLC*, No. 24-CV-01319-LB, 6 2024 WL 3225905, at *6-7 (N.D.

Cal. June 27, 2024) (concluding that violation rates of 7 once or twice per week for overtime, minimum wage, and meal and rest period claims were 8 consistent with allegations that violations occurred “at times” and “on occasion”); *Demaria 9 v. Big Lots Stores - PNS, LLC*, No. 2:23-CV-00296-DJC-CKD, 2023 WL 6390151, at *7- 10 8 (E.D. Cal. Sept. 29, 2023) (concluding that violation rate of one hour per week of unpaid 11 minimum wages, and two violations per week of meal and rest break periods, were 12 reasonable where complaint alleged violations “at times”).

Plaintiff suggests that 13 Defendants’ assumptions as to meal and rest breaks are unreasonable absent evidence of 14 shifts that qualified for meal or rest breaks; but the declaration of Ameri-Force’s CFO 15 stated that “nearly all” of the 767 Ameri-Force employees in California during the relevant 16 time period worked 7.5 hours or more per day, and worked on average five days per week.

17 ECF No. 245-1 ¶ 15. Plaintiff herself alleges that shifts of this duration qualify for meal 18 and rest periods. ECF No. 1-2 ¶¶ 53, 61. The Court also concludes that the inclusion of 19 liquidated damages, in an amount equal to the unpaid minimum wages, is a reasonable 20 assumption. See Cal. Labor Code § 1194.2 (“[A]n employee shall be entitled to recover 21 liquidated damages in an amount equal to the wages unlawfully unpaid and interest 22 thereon.”).

23 District courts have upheld the assumption of 100% violation rates for waiting time 24 penalties. See *Nunes v. Home Depot U.S.A., Inc.*, No. 2:19-CV-01207-JAM-DB, 2019 WL 25 4316903, at *3 (E.D. Cal. Sept. 12, 2019) (finding reasonable an assumption of the 26 maximum waiting time penalty of 30 days of pay); *Hill v. Hogan Pers., LLC*, No. EDCV 27 25-0564 JGB (SHKX), 2025 WL 1898255, at *8 (C.D.

Cal. July 9 2025) (“[T]he 100% 28 violation rate is not only reasonable—it is a necessary condition of Plaintiff’s decision to 1 file this putative class action case.”). Plaintiff argues that this assumption is unreasonable 2 here, because the Complaint alleges that class members are entitled to waiting time 3 penalties “from the date their earned and unpaid wages were due, upon termination or 4 resignation, until paid, up to a maximum of thirty (30) days.” ECF No. 1-2 ¶ 71 (emphasis 5 added).

The Court does not construe this language in the Complaint to mean that Plaintiff 6 is seeking something less than the full amount of waiting time penalties available for every 7 class member. See also Nunes, 2019 WL 4316903, at *3 (finding assumption of 30-day 8 penalty reasonable where complaint demanded “up to thirty days of pay as penalty”). 9 Plaintiff also argues that “Defendant’s discounting of the waiting time penalties by 25% to 10 account for the three-year statute of limitations is unreasonable as it assumes an equal 11 distribution of terminated employees over time,” ECF No. 26 at 5, but makes no argument 12 as to why some other, non-equal distribution should be used.

13 Additionally, Defendants’ assumption of a 50% violation rate for failure to provide 14 accurate wage statements is reasonable here. Indeed, courts have upheld the reasonableness 15 of an assumed 100% violation rate, based on the reasonable assumption of other weekly 16 wage and hour violations that in turn would result in inaccurate wage statements. See 17 *Serrieh v. Jill Acquisition LLC*, 707 F. Supp. 3d 968, 978 (E.D.

Cal. 2023) (concluding that 18 100% violation rate for inaccurate wage statements where another reasonable assumption 19 included weekly violations for meal and rest period claims); Nunes, 2019 WL 4316903, at 20 *3 (“[I]t is reasonable to assume the class members suffered at least one violation (e.g. one 21 missed meal or rest break) per pay period. This Court therefore finds, based on the 22 Complaint, Home Depot’s assumption of a 100 percent violation rate [for inaccurate wage 23 statements] is reasonable.”).

For similar reasons, the Court determines that Defendants’ 24 assumed 50% violation rate for failure to timely pay wages is reasonable. See, e.g., *La 25 Grow v. JetBlue Airways Corp.*, No. 2:24-CV-00518-ODW (SKX), 2024 WL 3291589, at 26 *6 (C.D. Cal. July 3, 2024) (“[A]s the Court finds a 25% violation rate to be a reasonable 27 assumption rate for La Grow’s meal and rest break claims (assuming a violation one out of 28 every four shifts worked by the putative class members), this Court agrees with the court 1 in *Lucas* that it is likely that the wage statements JetBlue provided would necessarily be 2 inaccurate 100% of the time.”).

3 As for Defendants’ assumption of a violation rate of \$20 per month for unreimbursed 4 expenses, courts have found similar assumptions reasonable where the plaintiff fails to 5 offer an alternative figure. See *Rombaut v. U.S. Concepts LLC*, No. 2:25-CV-02802-AB 6 (EX), 2025 WL 2044670, at *8 (C.D. Cal. July 18, 2025); *Vallejo v. Sterigenics U.S., LLC*, 7 No. 3:20-cv-01788-AJB-AHG, 2021 WL 2685348, at *6 (S.D.

Cal. June 29, 2021) 8 (approving assumption of \$25 per month for unreimbursed cell phone expenses). The Court 9 also determines that Defendants’ assumption of a 50% violation rate for Plaintiff’s paid 10 sick leave claim is reasonable, where Plaintiff alleges that Defendants had a “consistent 11 policy” of violating the applicable statute. See ECF No. 1-2 ¶ 104.

12 As set forth above, the amount in controversy exceeds \$5 million before any addition 13 of attorneys' fees. The Court determines that Defendants' assumption of 25% in fees is 14 reasonable as well. See *Rombaut*, 2025 WL 2044670 at *9; *Jacob v. CSL Plasma Inc.*, No. 15 24-CV-01807-H-DEB, 2024 WL 5004529, at *6 (S.D. Cal. Dec. 6, 2024).

Accordingly, 16 Defendants have satisfied the amount in controversy requirement under CAFA.2 17 B. Local Controversy Exception 18 Plaintiff next argues that the case should be remanded because it falls under the 19 "local controversy exception" to CAFA's removal provisions, 28 U.S.C. § 1332(d)(4)(A). 20 See ECF No. 22 at 19-24. That exception provides: 21 // 22 23 24 2 Plaintiff suggests in passing that Defendants' estimate of the amount in controversy 25 is "likely inaccurate" due to the fact of a prior class action settlement involving Ameri- Force.

ECF No. 22 at 14-15. However, the Ninth Circuit has determined that a defense 26 based on release of claims is irrelevant to determining the amount in controversy. See *Arias 27 v. Residence Inn by Marriott*, 936 F.3d 920, 928 (9th Cir. 2019) ("[T]he strength of any defenses indicates the likelihood of the plaintiff prevailing; it is irrelevant to determining 28 1 (4) A district court shall decline to exercise jurisdiction under [CAFA] ... 2 3 (A) (i) over a class action in which— 4 (I) greater than two-thirds of the members of all proposed 5 plaintiff classes in the aggregate are citizens of the State in which the action was originally filed; 6 7 (II) at least 1 defendant is a defendant— 8 (aa) from whom significant relief is sought by members 9 of the plaintiff class; 10 (bb) whose alleged conduct forms a significant basis for 11 the claims asserted by the proposed plaintiff class; and 12 (cc) who is a citizen of the State in which the action was 13 originally filed; and 14 (III) principal injuries resulting from the alleged conduct or any 15 related conduct of each defendant were incurred in the State in which the action was originally filed; and 16 17 (ii) during the 3-year period preceding the filing of that class action, no other class action has been filed asserting the same or similar factual 18 allegations against any of the defendants on behalf of the same or other 19 persons[.]

20 28 U.S.C. § 1332(d)(4)(A). If the local controversy exception applies, and a district court 21 must remand the class action back to the originating state court. *Bridewell-Sledge v. Blue 22 Cross of Cal.*, 798 F.3d 923, 928 (9th Cir. 2015). 23 By its terms, the local controversy exception does not apply unless the fourth prong 24 of the statute, the "no similar class action" requirement, is met.

Here, the Plaintiff does not 25 dispute that, within the three years prior to the filing of this lawsuit, there have been two 26 class actions asserting the same or similar claims on a class action basis on behalf of 27 NASSCO's non-exempt employees in California: (1) *Timothy Reed v. NASSCO Inc. et al.*, 28 1 San Diego County Superior Court Case No. 37-2021-00046144-CU-OE-CTL, filed 2 October 8, 2021 ("Reed"); and (2) and *Eyong v. National Steel and Shipbuilding Co., et 3 al.*, San

Diego Superior Court Case No. 37-2024-00017371-CU-OE-CTL (“Eyong”), filed 4 on April 12, 2024, and removed to federal court on May 17, 2024.

See ECF No. 24 at 21; 5 ECF No. 26 at 9-10. Plaintiff contends, however, that because these two cases settled 6 individually, and the class claims in each case were dismissed, that the “purpose” or 7 “intent” of the rule is satisfied. ECF No. 26 at 9 (“[T]here is ... no danger that the intent of 8 the ‘no additional class actions’ requirement is violated as there would be no concurrent 9 class action.”).

Plaintiff relies on the Ninth Circuit’s decision in *Bridewell-Sledge v. Blue 10 Cross of California*, 798 F.3d 923 (9th Cir. 2015), which observed that “the purpose of the 11 fourth prong... is to ensure that similar, overlapping class actions do not proceed before 12 different state courts in an uncoordinated, redundant fashion resulting in inefficiencies.” 13 Id. at 932.

14 The Ninth Circuit’s recital of the statutory purpose of the fourth prong did not 15 authorize district courts to examine whether that purpose would be well served in a given 16 case, as a substitute for applying the plain language of the statute. *Bridewell-Sledge* 17 addressed the situation where two similar class actions had been filed in California state 18 court, and then consolidated into a single action in the California court, prior to the 19 defendants filing two separate notices of removal to federal court.

Id. at 924. The Ninth 20 Circuit consulted California law to determine that, when the two actions had been 21 consolidated, they were merged prior to removal into a single proceeding. Id. at 930. The 22 Court concluded that under these circumstances, it was necessary to view the two state- 23 court lawsuits “as a single consolidated class action that was united originally, rather than 24 as two separate class actions filed at different times.” Id. The Ninth Circuit continued, 25 “[w]hen viewed as a single consolidated class action ... it is undisputed that no other 26 similar class action was filed against any of the defendants during the preceding three-year 27 period.” Id. Thus, the Ninth Circuit did not modify the statutory language of the fourth 28 prong; instead, it applied that language to the facts before it.

See also *Kendrick v. Conduent 1 || State & Local Sols., Inc.*, 910 F.3d 1255, 1261 (9th Cir. 2018) (“As in *Bridewell-Sledge*, 2 || we are dealing with a single case, not two different class actions proceeding on different 3 || tracks before different judges.

Therefore, no ‘other class action’ has been filed within the 4 || meaning of the statute.”). 5 Plaintiff does not argue here that either the *Reed* or the *Eylan* case should be treated 6 a “single case” with the current class action. There is no statutory basis to discount them 7 || as “other,” similar class actions filed within the three years preceding this lawsuit.

The “no 8 ||similar class action” requirement therefore bars the application of the local controversy 9 || exception to removal jurisdiction here. 10 C. Plaintiff’s Unfair Competition Claim for

Restitution 11 Finally, Plaintiff argues that remand is warranted because the Court lacks equitable
12 /jurisdiction over Plaintiff's unfair competition claim for restitution of unpaid wages.

ECF 13 ||No. 22 at 24-25. However, “the presence of at least some claims over which the district
14 || court has original jurisdiction is sufficient to allow removal of an entire case, even if others
15 || of the claims alleged are beyond the district court’s power to decide.” Lee v. Am. Nat’l Ins.
16 || Co., 260 F.3d 997, 1002-03 (9th Cir. 2001).

Because the Court has subject jurisdiction over 17 of Plaintiff's claims, remanding the entire
action would be inappropriate. See, e.g., 18 || Cantu v. England, Inc., No. EDCV 23-02126-MWF
(SPx), 2024 WL 1995349, at *3 19 ||(C.D. Cal. May 6, 2024). 20 ||IV. CONCLUSION 21 For the
foregoing reasons, Plaintiff's motion to remand [ECF No. 22] is □□□□□□ 22 IT IS SO
ORDERED.

23 Dated: September 11, 2025 [ekut C [owe Hon. Robert S.Huie 25 United States District Judge
26 27 28 3 The Court grants the Parties’ requests for taking judicial notice of records of other
court proceedings. ECF Nos. 22-2, 24-3, 26-1. 1A