

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Ramos v. Subaru of America, Inc.

No. 1:22-cv-01516-AWI-SKO (E.D. Cal. Mar. 6, 2023) · No. 1:22-cv-01516-AWI-SKO · Decided March 6,
2023

SUMMARY

The United States District Court for the Eastern District of California denied without prejudice Plaintiff Nolberto Rivera Ramos’s motion for leave to file a first amended complaint. The court held that the proposed complaint failed to plead a federal-question or complete-diversity basis for subject-matter jurisdiction, and noted that any post-removal joinder that would destroy diversity must be evaluated under 28 U.S.C. § 1447(e).

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sheila K. Oberto
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 6, 2023
DOCKET	1:22-cv-01516-AWI-SKO
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved under Federal Rule of Civil Procedure 15(a) for leave to file a first amended complaint that would add U LVS, LLC as a defendant, revise factual allegations and causes of action, and remove the Magnuson-Moss Warranty Act claim. The court denied the motion without prejudice because the proposed amended complaint did not sufficiently plead a basis for federal subject matter jurisdiction.
STANDARD OF REVIEW	The court applied the requirement that subject matter jurisdiction may be considered sua sponte at any time and that the party invoking federal jurisdiction bears the burden of establishing it. The motion to amend was evaluated under Federal Rule of Civil Procedure 15(a), subject to jurisdictional requirements.
PRECEDENTIAL VALUE	unpublished district court order

PARTIES

Nolberto Rivera Ramos v. Subaru of America, Inc., U LVS, LLC,
doing business as Livermore Subaru

TOPICS

motion to amend

subject matter jurisdiction

joinder

civil procedure

consumer protection

PRACTICE AREAS

Civil procedure

Federal jurisdiction

Consumer warranty law

Consumer protection

QUESTIONS PRESENTED

1. Whether the proposed first amended complaint sufficiently pleaded federal-question jurisdiction after removing the Magnuson-Moss Warranty Act claim and leaving only state-law claims.
2. Whether the proposed first amended complaint sufficiently pleaded complete diversity jurisdiction after seeking to join an LLC without alleging the citizenship of its members or owners.
3. Whether leave to amend should be granted under Federal Rule of Civil Procedure 15(a) when the proposed amended complaint fails to establish subject matter jurisdiction.

HOLDINGS

1. The proposed first amended complaint failed to plead federal-question jurisdiction under 28 U.S.C. § 1331 because it removed the Magnuson-Moss Warranty Act claim and all remaining claims arose under California law.
2. The proposed first amended complaint failed to plead complete diversity under 28 U.S.C. § 1332 because it did not allege the citizenship of the members or owners of the proposed LLC defendant.
3. Leave to amend was denied without prejudice because the proposed amended complaint did not adequately plead a basis for federal subject matter jurisdiction.
4. If joining U LVS, LLC would destroy diversity jurisdiction, a renewed motion seeking that joinder must be brought under 28 U.S.C. § 1447(e), rather than solely under Federal Rule of Civil Procedure 15(a).

KEY QUOTATIONS

“The Court may consider the issue of subject matter jurisdiction sua sponte at any time during the proceeding, and if the Court finds it lacks subject matter jurisdiction, the court must dismiss (or remand) the action.” (at 1)

“A limited liability company (LLC) is the citizen of every state where its owners or members are citizens, regardless of its state of formation or principal place of business; the citizenship of all of its members must be alleged.” (at 2)

FACTUAL BACKGROUND

Ramos sued Subaru of America, Inc. in California state court over alleged vehicle warranty issues, asserting state consumer-warranty and related claims as well as a federal Magnuson-Moss Warranty Act claim. After removal to federal court, he sought to amend the complaint to add U LVS, LLC, doing business as Livermore Subaru, and to eliminate the federal warranty claim. The proposed amended complaint alleged only that U LVS was a California limited liability company registered to do business in California, without identifying the citizenship of its members or owners.

PROCEDURAL HISTORY

Ramos filed suit in Stanislaus County Superior Court asserting Song-Beverly Consumer Warranty Act claims, state-law warranty claims, a Magnuson-Moss Warranty Act claim, and a California Business and Professions Code section 17200 claim. Subaru removed the action to federal court on November 21, 2022, invoking diversity and federal-question jurisdiction. Ramos then moved for leave to amend; the court denied the motion without prejudice and permitted renewal with an amended complaint adequately pleading subject matter jurisdiction.

DISPOSITION

other

REMAND INSTRUCTIONS

The motion for leave to file a first amended complaint was denied without prejudice. Plaintiff may renew the motion with a proposed amended complaint that pleads the basis for subject matter jurisdiction and addresses the deficiencies identified in the order. If joinder of U LVS, LLC would destroy diversity jurisdiction, any renewed motion must proceed under 28 U.S.C. § 1447(e), not merely Rule 15(a).

CASES CITED

- Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994)
- Romero v. Securus Techs., Inc., 216 F. Supp. 3d 1078, 1085 (S.D. Cal. 2016)
- Scholastic Ent., Inc. v. Fox Ent. Grp., Inc., 336 F.3d 982, 985 (9th Cir. 2003)
- Caterpillar Inc. v. Williams, 482 U.S. 386, 392 (1987)
- City of Oakland v. BP PLC, 969 F.3d 895, 903 (9th Cir. 2020)
- Caterpillar Inc. v. Lewis, 519 U.S. 61, 68 (1996)
- Kanter v. Warner-Lambert Co., 265 F.3d 853, 857 (9th Cir. 2001)
- Harris v. Rand, 682 F.3d 846, 850 (9th Cir. 2012)
- NewGen, LLC v. Safe Cig, LLC, 840 F.3d 606, 611-12 (9th Cir. 2016)
- Grayson Serv., Inc. v. Crimson Res. Mgmt. Corp., 2015 WL 6689261, at *3 (E.D. Cal. Oct. 28, 2015)
- Boon v. Allstate Ins. Co., 229 F. Supp. 2d 1016, 1019 n.2 (C.D. Cal. 2002)
- Hardin v. Wal-Mart Stores, Inc., 813 F. Supp. 2d 1167, 1173 (E.D. Cal. 2011)
- Clinco v. Roberts, 41 F. Supp. 2d 1080, 1086 (C.D. Cal. 1999)

OPINION

1 2 3 4 5 6 UNITED STATES DISTRICT COURT 7 EASTERN DISTRICT OF CALIFORNIA 8
9 NOLBERTO RIVERA RAMOS, Case No. 1:22-cv-01516-AWI-SKO 10 Plaintiff, ORDER
DENYING WITHOUT PREJUDICE MOTION FOR LEAVE TO 11 v. FILE FIRST AMENDED
COMPLAINT 12 (Doc. 7) SUBARU OF AMERICA, INC., et al., 13 Defendants. 14
_____/ 15 16 17 Plaintiff Nolberto Rivera Ramos filed this
action in Stanislaus County Superior Court against 18 Defendant Subaru of America, Inc. for
claims under the Song-Beverly Consumer Warranty Act; 19 breach of express and implied
warranties under state law; violation of the federal Magnuson-Moss 20 Warranty Act; and
violation of California Business and Professions Code § 17200.

(See Doc. 1.) 21 Defendant removed the action to this Court on November 21, 2022, on grounds
of diversity 22 jurisdiction under 28 U.S.C. § 1332 and federal question jurisdiction under 28
U.S.C. § 1331. (See 23 id.) 24 On February 17, 2023, Plaintiff filed a motion for leave to file a
first amended complaint 25 pursuant to Fed. R. Civ. P. 15(a). (See Doc. 7.)

Plaintiff seeks leave to join as a defendant U LVS, 26 LLC, doing business as “Livermore
Subaru”; to add a statement of facts and modify the wording of 27 the causes of action; and to
remove the cause of action for violation of the Magnuson-Moss Warranty 28 Act. (See id at 2.) 1
Plaintiff’s proposed first amended complaint is devoid of any allegations that this Court has 2
subject matter jurisdiction.

The burden of establishing subject matter jurisdiction “rests upon the 3 party asserting
jurisdiction.” *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994); 4 see also
Romero v. Securus Techs., Inc., 216 F. Supp. 3d 1078, 1085 (S.D. Cal. 2016) (“As the party 5
putting the claims before the court, Plaintiffs bear the burden of establishing jurisdiction.”).

The 6 Court may consider the issue of subject matter jurisdiction sua sponte at any time during the
7 proceeding, and if the Court finds it lacks subject matter jurisdiction, the court must dismiss (or
8 remand) the action. See Fed. R. Civ. P. 12(h)(3); *Scholastic Ent., Inc. v. Fox Ent. Grp., Inc.*, 336
9 F.3d 982, 985 (9th Cir. 2003).

As described below, the proposed first amended complaint fails to 10 plead sufficiently federal
jurisdiction. 11 First, 28 U.S.C. § 1331 grants federal courts jurisdiction “of all civil actions arising
under 12 the Constitution, laws, or treaties of the United States.” The general rule, referred to as
the “well- 13 pleaded complaint rule,” is that a civil action arises under federal law for purposes of
§ 1331 when 14 a federal question appears on the face of the complaint.

Caterpillar Inc. v. Williams, 482 U.S. 386, 15 392 (1987). “[F]ederal jurisdiction depends solely on
the plaintiff’s claims for relief and not on 16 anticipated defenses to those claims.” *City of
Oakland v. BP PLC*, 969 F.3d 895, 903 (9th Cir. 2020) 17 (internal quotations omitted).

Because Plaintiff's proposed first amended complaint removes the 18 claim for relief under the federal Magnuson-Moss Warranty Act (see Doc. 7 at 2), and all remaining 19 claims arise under California law, it fails to plead jurisdiction under § 1331. 20 Second, 28 U.S.C. § 1332(a) provides jurisdiction over certain actions between citizens of 21 different states.

Complete diversity is a requirement of 28 U.S.C. § 1332. Thus, the "citizenship of 22 each plaintiff [must be] diverse from the citizenship of each defendant." *Caterpillar Inc. v. Lewis*, 23 519 U.S. 61, 68 (1996). For diversity purposes, the citizenship of an individual is "determined by 24 [their] state of domicile, not [their] state of residence." *Kanter v. Warner-Lamber Co.*, 265 F.3d 25 853, 857 (9th Cir.

2001). Corporations are citizens of their states of incorporation and their principal 26 places of business. 28 U.S.C. § 1332(c); *Harris v. Rand*, 682 F.3d 846, 850 (9th Cir. 2012). A 27 limited liability company (LLC) is the citizen of every state where its owners or members are 28 citizens, regardless of its state of formation or principal place of business; the citizenship of all of 1 its members must be alleged.

NewGen, LLC v. Safe Cig, LLC, 840 F.3d 606, 611-12 (9th Cir. 2016). 2 Plaintiff does not allege the citizenship of the members or owners of the to-be-joined 3 defendant U LVS, LLC. The proposed first amended complaint simply states that "Defendant U 4 LVS, LLC, is and was a California limited liability company, doing business as[] Livermore Subaru 5 ('LIVERMORE SUBARU') [sic] is registered to do business in the State of California." (Doc.

7 6 at 9.) "Absent unusual circumstances, a party seeking to invoke diversity jurisdiction should be able 7 to allege affirmatively the actual citizenship of the relevant parties." *Kanter*, 265 F.3d at 857. 8 Because Plaintiff does not allege the citizenship of the LLC members or owners, the proposed 9 amended complaint fails to plead complete diversity to establish jurisdiction under § 1332.

See, 10 e.g., *Grayson Serv., Inc. v. Crimson Res. Mgmt. Corp.*, 2015 WL 6689261, at *3 (E.D. Cal. Oct. 28, 11 2015) (granting motion to dismiss where plaintiff's second amendment complaint was "devoid of 12 any mention of the citizenship of the owners of the LLC" because "failure to specify the state 13 citizenship of the parties is fatal to the assertion of diversity jurisdiction").

14 Accordingly, Plaintiff's motion for leave to file a first amended complaint (Doc. 7) is 15 DENIED WITHOUT PREJUDICE, subject to being renewed with a proposed amended complaint 16 that pleads the basis for this Court's subject matter jurisdiction, addressing the issues identified in 17 this order.1 18 IT IS SO ORDERED. 19 20 Dated: March 6, 2023 /s/ Sheila K. Oberto.

UNITED STATES MAGISTRATE JUDGE 21 22 23 24 1 To the extent joinder of U LVS, LLC as a defendant would destroy diversity jurisdiction, any renewed motion to 25 amend seeking such relief shall be brought under 28 U.S.C. § 1447(e), not Fed. R. Civ. P. 15(a). See *Boon v. Allstate*

Ins. Co., 229 F. Supp. 2d 1016, 1019 n.2 (C.D. Cal. 2002) (“[T]he proper standard for deciding whether to allow post- 26 removal joinder of a diversity-destroying defendant is set forth in 28 U.S.C. 1447(e).”) (citations omitted); see also *Hardin v. Wal-Mart Stores, Inc.*, 813 F. Supp. 2d 1167, 1173 (E.D.

Cal. 2011) (“Plaintiffs may not circumvent 28 U.S.C. 27 § 1447(e) by relying on Fed. R. Civ. P. 15(a) to join non-diverse parties.”) (citing *Clinco v. Roberts*, 41 F. Supp. 2d 1080, 1086 (C.D. Cal. 1999) (holding that amendment under Fed. R. Civ. P. 15(a) should not be permitted where to do so would destroy diversity after removal because it “would allow a plaintiff to improperly manipulate the forum of an