

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

Avery v. TEKsystems, Inc.

Avery · No. 22-cv-02733-JSC · Decided October 7, 2025

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7
BO AVERY, PHOEBE RODGERS, Case No. 22-cv-02733-JSC KRISTY CAMILLERI, and JILL
8 UNVERFERTH, individually and on behalf of all others similarly situated, ORDER RE:
MOTION TO REMAND 9 UNFAIR COMPETITION CLAIM Plaintiffs, 10 Re: Dkt. No. 154 v.
11 TEKSYSTEMS, INC., 12 Defendant. 13 14 A certified class of Recruiters for TEKsystems,
Inc. (“TEK”) allege TEK improperly 15 classifies them as exempt from California overtime,
wage, and hour laws and therefore illegally 16 underpays recruiters.

(Dkt. No. 1-2.)1 Plaintiffs filed this action in California state court and 17 Defendants removed it
to this Court. (Dkt. No. 1.) Now pending before the Court is Plaintiffs’ 18 motion to sever and
remand the Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code § 19 17200, et seq., claim
to state court. (Dkt. No. 154.)

Having carefully considered the parties’ 20 submissions, and with the benefit of oral argument on
October 2, 2025, the Court GRANTS 21 Plaintiffs’ motion to remand the UCL claim. The parties
agree Plaintiffs’ UCL claim for 22 restitution has an adequate remedy at law, and Plaintiffs
disavow seeking injunctive relief under 23 the UCL.

The Court therefore lacks equitable jurisdiction over the UCL claims and remands them 24 to state
court. Given the limitations period for the remaining claims, the Court amends the class 25
definition to have a start date of January 28, 2019, and orders notice to the Recruiters no longer 26
27 1 included in the class. 2 BACKGROUND 3 TEK is an information technology (“IT”) staffing
and services company with employees 4 holding various recruiting positions.

(Dkt. No. 128 at 1-2.) This action involves one position, 5 “Recruiters,” who source and screen
candidates to find IT consultants who match the job 6 requirements provided by TEK’s clients.
(Id. at 2.) Recruiters allege TEK routinely required 7 them to work overtime, but classified
Recruiters as exempt under California overtime laws and did 8 not pay them overtime wages.

(Dkt. No. 1-2 ¶¶ 56-57.) 9 On January 28, 2022, Plaintiffs filed a putative class action against
TEK in the California 10 Superior Court for the County of San Francisco. (Dkt. No. 1-1.) A few
months later, Plaintiffs 11 filed an amended complaint alleging TEK (1) failed to pay overtime

wages (Cal. Lab. Code §§ 12 510, 1194, 1198); (2) failed to pay timely wages during employment and upon termination (Cal.

13 Lab. Code §§ 201-03); (3) failed to provide and maintain accurate wage statements (Cal. Lab. 14 Code §§ 226, 1174); (4) violated meal break requirements (Cal. Lab. Code §§ 226.7, 512); and (5) 15 violated rest break requirements (Cal. Lab. Code § 226.7). (Dkt. No. 1-2 ¶¶ 69-93.) Plaintiffs also 16 assert violations of the UCL and California's Private Attorney General Act, Cal. Lab.

Code § 17 2698, et seq. (Id. ¶¶ 94-110.) Plaintiffs' UCL claim seeks "restitution in the amount of the 18 respective unpaid wages earned and due," as well as "recovery of attorneys' fees and costs." (Dkt. 19 No. 1-2 ¶¶ 100-01.)

In their Prayer for Relief, Plaintiffs sought damages, "[a]ppropriate injunctive 20 and equitable relief," and other remedies. (Id. at 19-20.) TEK removed the case to this Court 21 under the Class Action Fairness Act, 28 U.S.C. § 1332(d). (Dkt. No. 1.) 22 The Court certified "a class of all current and former Recruiters employed by [TEK] in 23 California from January 28, 2018 to the final date of judgment," and "a subclass of all class 24 members who worked for [TEK] as Recruiters on or after January 28, 2019 and who are no longer 25 employed by [TEK] and have not been employed by [TEK] for more than 72 hours." (Dkt.

No. 84 26 at 26.) The Court also denied TEK's motion to compel arbitration, which TEK has appealed to the 27 Ninth Circuit, and granted Plaintiffs' motion for partial summary judgment on TEK's 1 127, 128.) 2 Plaintiffs now seek to sever and remand their UCL claim to state court. (Dkt. No. 154.) 3 DISCUSSION 4 I. MOTION TO REMAND 5 Unlike state courts, federal courts must have equitable jurisdiction to hear the merits of an 6 equitable claim.

See *Guzman v. Polaris Industries, Inc.*, 49 F.4th 1308, 1314 (9th Cir. 2022). 7 Federal courts have equitable jurisdiction only when a plaintiff has no adequate legal remedy 8 based on the same harm. See *Sonner v. Premier Nutrition Corp.*, 971 F.3d 834, 842 (9th Cir. 9 2020). So, if monetary damages provide an adequate remedy, a federal court may not consider the 10 merits of equitable claims for restitution or injunctive relief.

See *Franklin v. Gwinnett Cnty. Pub. 11 Sch.*, 503 U.S. 60, 75-76 (1992). "[E]quitable relief must be withheld when an equivalent legal 12 claim would have been available but for a time bar." *Guzman*, 49 F.4th at 1312. Plaintiffs bear 13 the burden of establishing they lack an adequate legal remedy before they can obtain equitable 14 relief. See *Sonner*, 971 F.3d at 844.

Ultimately, "when a case is removed from state court and the 15 district court concludes it lacks equitable jurisdiction, the court has the authority to remand the 16 case to state court" or dismiss the case without prejudice. *Ruiz v. Bradford Exch., Ltd.*, --- F.4th -- 17 -, No. 24-3378, 2025 WL

2473007, at *5 (9th Cir. Aug. 28, 2025). 18 The parties agree the Court lacks equitable jurisdiction to hear Plaintiffs' claim for 19 restitution under the UCL.

Because Labor Code claims have a three-year statute of limitations, 20 and UCL claims have a four-year statute of limitations, Plaintiffs assert a UCL claim for 21 restitution of unpaid overtime wages for the fourth preceding year, "essentially a one-year tail of 22 additional overtime." (Dkt. No. 154 at 2.)

In *Guzman v. Polaris Industries, Inc.*, 49 F.4th 1308 23 (9th Cir. 2022), the Ninth Circuit held a plaintiff asserting UCL claims alongside California 24 Consumer Legal Remedies Act ("CLRA"), Cal. Civ. Code § 1750, et seq., claims had an adequate 25 legal remedy in the CLRA claims, even though those claims were time barred. *Id.* at 1313. Like 26 the *Guzman* plaintiff, Plaintiffs have an adequate legal remedy in their Labor Code claims, despite 27 the shorter statute of limitations, and the Court therefore lacks equitable jurisdiction to hear their 1 However, TEK argues Plaintiffs assert UCL claims for injunctive relief for which the 2 Court retains equitable jurisdiction.

According to TEK, Plaintiffs' Prayer for Relief, which 3 includes a request for "[a]ppropriate injunctive and equitable relief, including an order enjoining 4 Defendant from continuing its unlawful practices," demonstrates Plaintiffs seek injunctive relief 5 under the UCL. (Dkt. No. 155 at 4; Dkt. No. 1-2 at 20.) Plaintiffs deny seeking injunctive relief 6 under the UCL, and cite their UCL cause of action, which only specifies restitution and recovery 7 of attorneys' fees and costs.

(Dkt. No. 156 at 2; Dkt. No. 1-2 ¶¶ 100-01). At oral argument, 8 Plaintiffs agreed to dismiss any and all claims for injunctive relief, to the extent such claims exist, 9 without prejudice and without leave to amend. So, Plaintiffs do not assert UCL claims for 10 injunctive relief for which the Court retains equitable jurisdiction. 11 As Plaintiffs point out, the Ninth Circuit's recent decision in *Ruiz v. Bradford Exch., Ltd.*, 12 No. 24-3378, 2025 WL 2473007 (9th Cir.

Aug. 28, 2025), allows TEK to "defeat remand on 13 equitable jurisdiction grounds by waiving the adequate-remedy-at-law issue." *Id.* at *9. At oral 14 argument, TEK stated it does not waive the adequate-remedy-at-law issue. So, the Court lacks 15 equitable jurisdiction to hear Plaintiffs' UCL claims.

Because TEK does not argue for dismissal, 16 the Court grants Plaintiffs' request to sever and remand the UCL claim to state court. 17 II. PRIOR CLASS CERTIFICATION AND SUMMARY JUDGMENT ORDERS 18 TEK argues because the Court lacks equitable jurisdiction over the UCL claims, it lacked 19 equitable jurisdiction to decide Plaintiffs' motions for class certification and for partial summary 20 judgment.

As an initial matter, TEK has not sought leave to file a motion for reconsideration. See 21 N.D. Cal. L.R. 7-9(a) ("No party may notice a motion for reconsideration without first obtaining 22

leave of Court to file the motion.”). Furthermore, TEK did not raise the issue of equitable 23 jurisdiction in its briefing or argument on either of Plaintiffs’ motions.

As the Ninth Circuit 24 recently clarified, “the adequate-remedy-at-law objection [i]s waivable,” and, unlike subject 25 matter jurisdiction, “district courts have [no] independent obligation to assess equitable 26 jurisdiction.” See Ruiz, 2025 WL 2473007, at *8. So, TEK likely has waived any objection to 27 class certification or partial summary judgment based on the Court’s lack of equitable jurisdiction 1 The Court nevertheless amends the class definition and orders supplemental notice.

2 Plaintiffs ask the Court to remove class members who are eligible for relief only through UCL 3 claims and not through Labor Code claims: specifically, Recruiters whose employment terminated 4 before January 28, 2019 and who therefore rely on the UCL’s four-year statute of limitations for 5 restitution.

The Court agrees to amend the class definition from “all current and former Recruiters 6 employed by Defendant in California from January 28, 2018 to the final date of judgment” to “all 7 current and former Recruiters employed by Defendant in California from January 28, 2019 to the 8 final date of judgment.” Because TEK’s policies remained substantially consistent over the entire 9 class period, (Dkt.

No. 84 at 15, 19), changing the class’s start date does not affect the reasoning 10 underlying the Court’s class certification order, and the Court can amend the class definition. See 11 *Foster v. Adams & Assocs., Inc.*, No. 18-cv-02723-JSC, 2021 WL 4924849, at *3 (N.D. Cal. Oct. 12 21, 2021) (changing certified class end date when change does “not alter the reasoning underlying 13 the Court’s prior Order granting class certification”); see also *Haas v. Travelex Ins.*

Servs. Inc., 14 No. CV 20-06171 PSG (PLAx), 2023 WL 2347427, at *6 (C.D. Cal. Jan. 10, 2023) (“[A] district 15 court has discretion to permit a revision of a class definition sua sponte.”). 16 Plaintiffs note 52 of the 542 Recruiters in the previously certified class will not be 17 members of the amended certified class because their employment with TEK terminated prior to 18 January 28, 2019.

The parties must provide notice to these 52 Recruiters explaining the class 19 definition no longer includes their dates of employment and informing them the UCL claim, under 20 which they might be entitled to recovery, has been remanded to the San Francisco Superior Court. 21 **CONCLUSION** 22 For the reasons stated above, the Court GRANTS Plaintiffs’ motion to remand the UCL 23 claim.

The Court also amends the certified class definition to include: (1) a class of all current and 24 former Recruiters employed by Defendant in California from January 28, 2019 to the final date of 25 judgment; and (2) a subclass of all class members who worked for Defendant as Recruiters on

or 26 after January 28, 2019 and who are no longer employed by Defendant and have not been 27 employed by Defendant for more than 72 hours.

1 no longer included in the class. The further case management conference set for November 19, 2
|| 2025 remains on calendar. An updated joint case management conference statement is due one 3
week in advance. 4 This Order disposes of Docket No. 154. 5 IT IS SO ORDERED. 6 Dated:
October 7, 2025 7 g ne JAQUELINE SCOTT CORL 9 United States District Judge 10 11 12 ©
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