UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

Michael Tighe v. Ferrellgas Partners, L.P.

Tighe · No. 5:24-cv-02643-SSS-DTBx · Decided August 19, 2025

SUMMARY

The United States District Court for the Central District of California grants Plaintiff Michael Tighe's motion to remand a PAGA employment action to California state court. The court concludes that the amount in controversy does not exceed $75,000 because only Tighe's share of PAGA penalties and attributable attorneys' fees may be counted. The court denies the motion to compel arbitration without prejudice, discharges the order to show cause, vacates the hearing, and directs the Clerk to close the case.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Sunshine S. Sykes
JURISDICTION	United States District Court for the Central District of California
DECIDED	August 19, 2025
DOCKET	5:24-cv-02643-SSS-DTBx
DISPOSITION	remanded
PROCEDURAL POSTURE	Plaintiff moved to remand a California Private Attorneys General Act action removed by defendants on the asserted basis of diversity jurisdiction. Defendants opposed remand and moved to compel arbitration.
STANDARD OF REVIEW	The removing defendants bore the burden of showing by a preponderance of the evidence that federal jurisdiction and the requirements for removal were satisfied. Any doubt as to the right of removal required remand.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court order

TOPICS

subject matter jurisdiction · civil procedure · attorney fees · employment law · arbitration

PRACTICE AREAS

civil procedure employment law

QUESTIONS PRESENTED

1. Whether the California Labor and Workforce Development Agency's 75% share of PAGA civil penalties may be aggregated with the employee's share to satisfy the amount-in-controversy requirement for diversity jurisdiction.
2. Whether defendants adequately established the amount of attorneys' fees attributable to Tighe's individual PAGA claims for purposes of the amount in controversy.
3. Whether the amount in controversy exceeded $75,000 so that removal based on diversity jurisdiction was proper.
4. Whether the pending motion to compel arbitration should be decided by the federal court after remand.

HOLDINGS

1. The LWDA's portion of PAGA civil penalties may not be aggregated with the employee's portion when determining the amount in controversy in a PAGA removal action.
2. In a PAGA removal action, only the portion of attorneys' fees attributable to the individual plaintiff's claims may be included in the amount in controversy; defendants' speculative calculation based on anticipated hours was insufficient.
3. Defendants failed to establish that the amount in controversy exceeded $75,000, so the district court lacked diversity jurisdiction and was required to remand the action.
4. The motion to compel arbitration was denied without prejudice because the case was being remanded and the motion could be refiled in state court.

KEY QUOTATIONS

> *"If there is any doubt as to the right to removal, a court must remand the action to state court."* (at 2)

> *"Accordingly, this Court joins the majority of other courts in declining to consider LWDA's portion of penalties toward the amount in controversy in PAGA removal actions."* (at 3)

> *"In all, Defendants have at most demonstrated the amount in controversy is $27,437.50, or less than the jurisdictional amount."* (at 4)

FACTUAL BACKGROUND

Tighe brought an employment-related PAGA action alleging California Labor Code violations. Defendants estimated civil penalties of at least $87,800 and attorneys' fees of $111,375, and relied on those amounts to support removal based on diversity jurisdiction. The court concluded that only Tighe's individual share of PAGA penalties and fees attributable to his claims could be counted, producing a maximum amount in controversy of $27,437.50.

PROCEDURAL HISTORY

Tighe filed a PAGA complaint in California superior court on October 25, 2024. Defendants removed the action to the Central District of California on December 13, 2024, asserting that the amount in controversy exceeded $75,000 and that the parties were diverse. The district court granted Tighe's motion to remand, denied the motion to compel arbitration without prejudice, discharged its order to show cause regarding consolidation, vacated the scheduled hearing, and directed the clerk to close the case.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The action is remanded to the Superior Court of the State of California for the County of Riverside. The motion to compel arbitration is denied without prejudice and may be refiled in state court. The clerk is directed to close the federal case.

CASES CITED

- Kokkonen v. Guardian Life Insurance Co. of America, 511 U.S. 375, 377 (1994)
- Ayala v. American Airlines, Inc., 2023 WL 6534199, at *1 (C.D. Cal. Oct. 6, 2023)
- Richardson v. United States, 943 F.2d 1107, 1112 (9th Cir. 1991)
- Jimenez v. General Motors, LLC, 2023 WL 6795274, at *2 (C.D. Cal. Oct. 13, 2023)
- Dart Cherokee Basin Operating Co., LLC v. Owens, 574 U.S. 81, 82 (2014)
- Emrich v. Touche Ross & Co., 846 F.2d 1190, 1195 (9th Cir. 1988)
- Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992)
- Matheson v. Progressive Specialty Insurance Co., 319 F.3d 1089, 1090 (9th Cir. 2003)
- Viking River Cruises, Inc. v. Moriana, 596 U.S. 639, 644 (2022)
- Steenhuyse v. UBS Financial Services, Inc., 317 F. Supp. 3d 1062, 1068-69 (N.D. Cal. 2018)
- Hesselink v. American Family Life Assurance Co. of Columbus, 2020 WL 7768711, at *3 (C.D. Cal. Dec. 30, 2020)
- Urbino v. Orkin Services of California, Inc., 726 F.3d 1118, 1122-23 (9th Cir. 2013)
- Lopez v. Ace Cash Express, Inc., 2015 WL 1383535, at *5 (C.D. Cal. Mar. 24, 2015)
- Patel v. Nike Retail Services, Inc., 58 F. Supp. 3d 1032 (N.D. Cal. 2014)
- Harp v. California Cemetery & Funeral Services, LLC, 2022 WL 1658716, at *3 (E.D. Cal. May 25, 2022)
- Canela v. Costco Wholesale Corp., 971 F.3d 845, 850 (9th Cir. 2020)
- Evers v. La-Z-Boy Inc., 2022 WL 4379311, at *3 (S.D. Cal. Sept. 22, 2022)
- Martin v. Franklin Capital Corp., 546 U.S. 132, 141 (2005)

OPINION

Michael Tighe v. Ferrellgas Partners, L.P.
PER CURIAM.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—
GENERAL

Case No. 5:24-cv-02643-SSS-DTBx Date August 19, 2025 Title Michael Tighe v. Ferrellgas Partners, L.P. et al. Present: The Honorable SUNSHINE S. SYKES, UNITED STATES DISTRICT JUDGE Irene Vazquez Not Reported Deputy Clerk Court Reporter Attorney(s) Present for Plaintiff(s): Attorney(s) Present for Defendant(s): None Present None Present Proceedings: (IN CHAMBERS) ORDER GRANTING PLAINTIFF'S
MOTION TO REMAND, DENYING DEFENDANTS'
MOTION TO COMPEL ARBITRATION WITHOUT
PREJUDICE, DISCHARGING ORDER TO SHOW
CAUSE, AND VACATING HEARING [DKTS. 21, 22]

Before the Court is a Motion to Remand ("Motion") filed by Plaintiff Michael Tighe. [Dkt. 21, Motion]. Defendants PeopleReady, Inc. and TrueBlue, Inc. oppose. [Dkt. 39, Opp.]. This matter is fully briefed and ripe for review. [See Dkt. 42, Reply]. Having considered the parties' arguments, relevant legal authority, and record in this case, the Court GRANTS Tighe's Motion. [Dkt. 21].

I. BACKGROUND

This case arises out of an employment dispute between Tighe and Defendants. On October 25, 2024, Tighe filed a Complaint in California superior court alleging Labor Code violations under the California Private Attorneys General Act ("PAGA"). [Dkt. 1 ¶ 1]. On December 13, 2024, Defendants filed a Notice of Removal to this Court. [Id.]. In the Notice, Defendants contend the Court exercises diversity jurisdiction. [Id. ¶ 11]. Particularly, Defendants calculate the amount in controversy related to be at least $87,800 in penalties and Page 1 of 5 CIVIL MINUTES—GENERAL Initials of Deputy Clerk iv $111,375 in attorneys' fees. [Id. ¶¶ 68, 72]. In the present Motion, Tighe challenges the Court's exercise of diversity jurisdiction, arguing the amount in controversy is under the jurisdictional minimum.

II. LEGAL STANDARD

Federal courts are courts of limited jurisdiction. Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994). Thus, federal courts can only hear cases if "there is a valid basis for federal jurisdiction." Ayala v. Am. Airlines, Inc., No. 2:23-cv-03571, 2023 WL 6534199, at *1 (C.D. Cal. Oct. 6, 2023) (citing Richardson v. United States, 943 F.2d 1107, 1112 (9th Cir. 1991)). A defendant may remove a case to federal court if the case could have been originally brought in federal court. 28 U.S.C. § 1441(a). "Under 28 U.S.C. § 1332, a district court has original jurisdiction over a civil action where (1) the amount in controversy exceeds the sum or value of $75,000, exclusive of interest and costs, and (2) the dispute is between 'citizens of different States.'" Jimenez v. General Motors, LLC, No. 2:23-cv-06991, 2023 WL 6795274, at *2 (C.D. Cal. Oct. 13, 2023). If a plaintiff contests removal, the burden is on the removing party to show by

a preponderance of the evidence that the requirements for removal were met. See Dart Cherokee Basin Operating Co., LLC v. Owens, 574 U.S. 81, 82
(2014); Emrich v. Touche Ross & Co., 846 F.2d 1190, 1195 (9th Cir. 1988). If
there is any doubt as to the right to removal, a court must remand the action to state court. See Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992) (stating "[f]ederal jurisdiction must be rejected if there is any doubt as to the right of removal in the first instance"); see also Matheson v. Progressive Specialty Ins. Co., 319 F.3d 1089, 1090 (9th Cir. 2003) (citing Gaus, 980 F.2d at 566).

III. DISCUSSION

Tighe's Motion argues Defendants have not sufficiently shown the amount in controversy exceeds the jurisdictional minimum of $75,000. Specifically, Tighe challenges Defendants' inclusion of penalties awarded to the California Labor and Workforce Development Agency ("LWDA"), calculation of attorney's fees, application of heightened penalties, and use of 37 pay periods. // // A. LWDA's Penalties PAGA provides that civil penalties from a successful action must be distributed 75% to LWDA and 25% to aggrieved employees.1 See e.g., Viking River Cruises, Inc. v. Moriana, 596 U.S. 639, 644 (2022). Thus, Tighe contends only the 25% of penalties that he can personally recover count towards the amount in controversy. [Motion at 14–15]. Defendants, on the other hand, maintain both Tighe and LWDA's share of penalties should be included. [Opp. at 3–5]. The Ninth Circuit has yet to "squarely consider[] the issue," and district courts remain split. Steenhuyse v. UBS Fin. Servs., Inc., 317 F. Supp. 3d 1062, 1068 (N.D. Cal. 2018). However, a "growing number of courts [] have held that the LWDA's share cannot be aggregated with the aggrieved employee's share for purposes of determining the amount in controversy." Hesselink v. Am. Fam. Life Assurance Co. of Columbus, No. 20-cv-02051-CJC-DFMx, 2020 WL 7768711, at
*3 (C.D. Cal. Dec. 30, 2020); see Steenhuyse, 317 F. Supp. 3d at 1069 (collecting
cases). [See Motion at 3–4 (collecting cases)]. Courts' differing opinions on the matter boil down to opposing interpretations of Urbino v. Orkin Services of California, Inc. 726 F.3d 1118 (9th Cir. 2013). In Urbino, the Ninth Circuit held the claims of aggrieved employees cannot be aggregated to satisfy the amount in controversy in PAGA actions. Id. at 1122–23. In doing so, the court held that "[t]he state, as the real party in interest, is not a citizen for diversity purposes," and thus only plaintiff's "individual interest," and not those of the other employees, may be aggregated. Id. "This language implies that [the state's] interest is not to be considered" in determining the amount in controversy. Lopez v. Ace Cash Exp., Inc., No. 11-cv-07116-JAK-JCx, 2015 WL 1383535, at *5 (C.D. Cal. Mar. 24, 2015). Accordingly, this Court joins the majority of other courts in declining to consider LWDA's portion of penalties toward the amount in controversy in PAGA removal actions. Thus, even accepting Defendants' other contentions that heightened penalties apply and 37 pay periods occurred, only $21,950, or 25% of 1 Though recent amendments to PAGA provide for aggrieved employees to recover 35% of penalties, Tighe notes that he sent his notice of claims before June 19, 2024, so the old rate applies. [Motion at 14 n.1].

Page 3 of 5 CIVIL MINUTES—GENERAL Initials of Deputy Clerk iv Defendants' estimated $87,800 in penalties, may count towards the amount in controversy. [See Dkt. 1 ¶ 68], B. Attorneys' Fees In "PAGA removal actions, only the portion of attorney's fees attributable to [plaintiff's] claims count towards the amount in controversy." Patel v. Nike Retail Servs., Inc., 58 F. Supp. 3d 1032 (N.D. Cal. 2014); Harp v. California Cemetery & Funeral Servs., LLC, No. 121-cv-01118-JLT-BAK, 2022 WL 1658716, at *3 (E.D. Cal. May 25, 2022) ("Instead, courts may only consider the pro rata share of attorney's fees attributable to each plaintiff in determining whether the amount in controversy is met."). In his Motion, Tighe supplies two methodologies courts use to calculate a pro rata share of attorneys' fees. [Motion at 16–18]. Courts may divide the total amount of attorneys' fees by the number of aggrieved employees. See Canela v. Costco Wholesale Corp., 971 F.3d 845, 850 (9th Cir. 2020). Alternatively, courts apply a "benchmark fee" of 25% of plaintiff's individual penalties. See Evers v. La-Z-Boy Inc., No. 22-cv-578-LL-BLM, 2022 WL 4379311, at *3 (S.D. Cal. Sept. 22, 2022). Courts "may exercise their discretion" in choosing between the two methods. Id. Defendants do not dispute the applicability of the governing law and yet eschew both methods in favor of speculating how many hours Tighe's counsel will work to prosecute his claims. [Opp. at 8–9]. The Court finds this unpersuasive. Taking 25% of Tighe's individual penalties, the Court arrives at $5,487.50 as recoverable in attorneys' fees. * * * In all, Defendants have at most demonstrated the amount in controversy is $27,437.50, or less than the jurisdictional amount. Accordingly, the Court does not possess diversity jurisdiction over this matter. Additionally, the Court declines to grant Tighe reasonable attorneys' fees incurred as a result of the removal because the basis for Defendants' removal was reasonable, particularly considering the split of authority on inclusion of LWDA's portion of penalties. See Martin v. Franklin Cap. Corp., 546 U.S. 132, 141 (2005). // // Page 4 of 5 CIVIL MINUTES—GENERAL Initials of Deputy Clerk iv

IV. CONCLUSION

The Court GRANTS Tighe's Motion and REMANDS this case to the Superior Court of the State of California for the County of Riverside. [Dkt. 21]. The pending Motion to Compel Arbitration, [Dkt. 22], is DENIED WITHOUT PREJUDICE and may be refiled in front of the state court. The Court DISCHARGES its Order to Show Cause regarding consolidation. [Dkt. 46]. The hearing on the Motion to Remand, Motion to Compel Arbitration, and Order to Show Cause scheduled on August 29, 2025 is VACATED. The Court DIRECTS the Clerk to close this case. IT IS SO ORDERED. Page 5 of 5 CIVIL MINUTES—GENERAL Initials of Deputy Clerk iv