

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Clifford Larsen v. Christian Dior Perfumes LLC et al.

No. 2:25-cv-00539-HDV-MAA, United States District Court for the Central District of California (April 10,
2025)

OPINION

Clifford Larsen v. Christian Dior Perfumes LLC

PER CURIAM.

1 2 3 4 JS-6 5 6 7

8 UNITED STATES DISTRICT COURT

9 CENTRAL DISTRICT OF CALIFORNIA

10 CLIFFORD LARSEN, Case No. 2:25-cv-00539-HDV-MAA 11

ORDER GRANTING PLAINTIFF’S

12 Plaintiff, MOTION TO REMAND [10] 13 14 v. 15

16 CHRISTIAN DIOR PERFUMES LLC et al.,

17 18 Defendants. 19 20 21 22 23 24 25 26 27 28

1 I. INTRODUCTION

2 This putative class action arises from Plaintiff Clifford Larsen’s employment with 3 Defendants
Christian Dior Perfumes LLC and LVMH Fragrance Brands US LLC (collectively 4
“Defendants”). Plaintiff brings a series of wage and hour claims alleging that Defendants failed to
5 pay minimum and overtime wages, provide meal and rest breaks, reimburse business expenses,
and 6 issue accurate itemized wage statements. 7 Before the Court is Plaintiff’s Motion to
Remand. (“Motion”) [Dkt. No. 10]. Plaintiff 8 contends that Defendants’ removal was improper
because the \$75,000 amount in controversy has not 9 been met. The Court agrees. The Court finds
that Defendants’ amount in controversy calculations 10 are too speculative and concludes on that
basis that there is no diversity jurisdiction. 11 The Motion is granted.

12 II. BACKGROUND

13 Plaintiff Clifford Larsen worked as a Selling Specialist for Defendants from November 17, 14
2020 to June 28, 2024. First Amended Complaint (“FAC”) ¶ 9 [Dkt. No. 15]. Larsen was 15
responsible for selling cosmetics and perfumes at Defendants’ retail counters inside Sak’s Fifth 16
Avenue, Nieman Marcus, Macy’s, and Bloomingdale’s department stores in Los Angeles County.
17 FAC ¶ 9. Larsen alleges that Defendants maintained joint control over key aspects of his and
other 18 putative class members’ employment, including their scheduled hours and working
conditions, 19 timing for meal and rest breaks, pay rates, and the hiring and termination of
employees. FAC ¶ 10. 20 On December 9, 2024, Larsen brought this putative class action in the
Los Angeles County 21 Superior Court alleging various wage and hour claims under the

California Labor Code and for IWC 22 Wage Order violations. See Notice of Removal (“NOR”), Ex. A [Dkt. No. 1-1]; see also FAC. On

23 January 21, 2025, Defendants removed the case to this Court on the basis of diversity jurisdiction.

24 See Notice of Removal (“NOR”) [Dkt. No. 1]. 25 On February 20, 2025, Plaintiff filed a Motion to Remand asserting that Defendants fail to 26 satisfy the \$75,000 amount in controversy threshold for diversity jurisdiction. See Motion. After the 27 Motion was fully briefed, Plaintiff filed a First Amended Complaint on March 12, 2025. See FAC. 28 The Court then granted Defendants leave to file a sur-reply based on the new information in the 1 FAC. See Defendants’ Sur-Reply (“Sur-Reply”) [Dkt. No. 16-2]; [Dkt. No. 19]. 2 The Court heard oral argument on the Motion on March 20, 2025 and took the matter under 3 submission. [Dkt. No. 18].

4 III. LEGAL STANDARD

5 Federal courts have original jurisdiction of civil actions between citizens of different states 6 where the matter in controversy exceeds \$75,000. 28 U.S.C. § 1332. Federal jurisdiction under § 7 1332 requires complete diversity, i.e., that each plaintiff is diverse from each defendant. Exxon 8 Mobil Corp. v. Allapattah Servs., Inc., 545 U.S. 546, 553 (2005) (citing *Strawbridge v. Curtiss*, 7 9 U.S. 267, 267 (1806)). A defendant may remove a case from state court to federal court pursuant to 10 the federal removal statute, 28 U.S.C. § 1441. That statute is strictly construed against removal 11 jurisdiction and there is a “strong presumption” against removal jurisdiction. *Gaus v. Miles, Inc.*, 12 980 F.2d 564, 566 (9th Cir. 1992) (citation omitted); see *Shamrock Oil & Gas Corp. v. Sheets*, 313 13 U.S. 100, 108–09 (1941). The party seeking removal bears the burden of establishing federal 14 jurisdiction. See *Prize Frize, Inc. v. Matrix, Inc.*, 167 F.3d 1261, 1265 (9th Cir. 1999). If the court 15 lacks subject matter jurisdiction or there exists any defect in the removal procedure, a federal court 16 may remand the case to state court. See 28 U.S.C. § 1447(c). 17 When the amount in controversy is contested, “courts first look to the complaint.” *Ibarra v.* 18 *Manheim Invs., Inc.*, 775 F.3d 1193, 1197 (9th Cir. 2015). If the complaint does not state an amount 19 in controversy, the defendant seeking removal bears the burden to show by a preponderance of the 20 evidence that the amount in controversy requirement is met. *Id.*; *Sanchez v. Monumental Life Ins.* 21 *Co.*, 102 F.3d 398, 404 (9th Cir. 1996) (“Under this burden, the defendant must provide evidence 22 that it is ‘more likely than not’ that the amount in controversy” satisfies the federal diversity 23 jurisdictional amount requirement). Failure to do so requires remand. *Gaus*, 980 F.2d at 566 24 (“Federal jurisdiction must be rejected if there is any doubt as to the right of removal in the first 25 instance.”). The parties may submit “summary-judgment-type evidence relevant to the amount in 26 controversy at the time of removal,” such as affidavits or declarations. *Ibarra*, 775 F.3d at 1197. 27 The defendant may rely on reasonable assumptions, *Anderson*, 556 F. Supp. 3d at 1136, but the 28 defendant may not rely on “mere speculation and conjecture.” *Ibarra*, 775 F.3d at 1197.

1 IV. DISCUSSION

2 Plaintiff argues that Defendants have not met their burden of establishing the \$75,000 3 amount in controversy required for diversity jurisdiction. See Motion at 1. In the Sur-Reply, 4 Defendants estimate that Plaintiff's damages are \$27,315 and the cost of attorneys' fees is \$58,000— 5 alleging a total amount in controversy of \$85,315. Sur Reply at 5. 6 In response, Plaintiff avers that Defendants' calculations are too speculative and fail to 7 provide any direct evidence to support the damages or attorneys' fees claims. Motion at 1. The 8 Court agrees for two reasons. 9 First, Defendants rely solely on conclusory statements in the Notice of Removal and the Sur- 10 Reply to establish Plaintiff's claims for damages. Defendants fail to corroborate their calculations 11 with any supporting declarations or documents. See Ibarra, 775 F.3d at 1199 (“[Defendant] bears 12 the burden to show that its estimated amount in controversy relied on reasonable assumptions.”). 13 For example, when calculating Plaintiff's alleged unpaid overtime wages, Defendants assumed that 14 Plaintiff was not paid for two hours every week for the entire 55-week employment period. NOR 15 ¶ 24–25. But Defendants fail to substantiate the number of penalties used in this calculation. As 16 Plaintiff's employers, Defendants had access (or could have easily gained access) to Plaintiff's 17 employment records and should have been in a position to provide some direct calculations or 18 estimates of his work hours.¹ Simply assuming that every employee worked two overtime hours per 19 week, without some facts, evidence, or a declaration to support this assumption, is insufficient to 20 meet Defendants' evidentiary burden. See *Nolan v. Kaya Oil Co.*, No. 11-cv-00707-MEJ, 2011 WL 21 2650973, at *4 (N.D. Cal. 2011) (granting plaintiff's motion to remand after defendant failed to 22 proffer estimates satisfying amount in controversy when assuming number of penalties without 23 evidence); see also *Dupre v. General Motors*, No. 10-cv-00955-RGK (Ex), 2010 WL 3447082, at *4 24 25 1 Defendants responded at oral argument that—at least in the final period of Plaintiff's employment— Defendants were not Plaintiff's direct employer, and therefore did not have access to 26 these records. But Defendants do not contest that they were Plaintiff's direct employer at one time, 27 and Plaintiff alleges that Defendants were his joint employer. FAC at 10. Regardless, Defendant is not relieved of its burden to establish the amount in controversy simply because it does not have 28 immediate access to records. 1 (C.D. Cal. 2010) (same).² 2 Second, even assuming *arguendo* that Defendants' damages calculations are accepted at face 3 value, Defendants still fail to establish the amount in controversy because the calculation of \$58,000 4 in attorneys' fees attributes this amount to Plaintiff individually, rather than the class as a whole.³ 5 That is plainly improper. See *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 858 (9th Cir. 2001) 6 (“[A]ny potential attorneys' fees award in this class action cannot be attributed solely to the named 7 plaintiffs for purposes of amount in controversy.”). The Ninth Circuit in *Kanter* instructed courts to 8 divide these fees among all members of the putative class when calculating amount in controversy. 9 *Kanter*, 265 F.3d at 858; see also *Olson v. Michaels Stores, Inc.*, No. 17-cv-03403-ABG-JSX, 2017 10 WL 3317811, at *5 (C.D. Cal. Aug. 2, 2017) (“[O]nly Plaintiff's pro rata share of attorneys' fees 11 may be considered to calculate the amount in controversy.”).

Defendants attempt to avoid this result 12 by arguing that they have only calculated those specific portions of litigation that focus on the 13 Plaintiff himself, such as the fees that would be spent on his deposition. But even the Plaintiff's 14 deposition and document discovery would be litigated for the benefit of the class and must be 15 divided among the class for purposes of calculating the amount in controversy.⁴ 16 17 18 19 2 Similarly, in Defendants' calculations regarding Plaintiff's alleged missed meal and rest periods 20 injuries, Defendants again assume that Plaintiff missed three meal and three rest periods per week. 21 NOR ¶ 28–29, 33. While Defendants base their assumed number of violations on Plaintiff's PAGA Notice—which alleges “frequent” missed meal and rest periods (NOR ¶ 28)—they fail to offer any 22 evidence to justify their assumption that three missed meal and rest breaks per week is a reasonable interpretation of the term “frequent.” 23 24 3 The Notice of Removal provides that “[e]ven conservatively assuming all these activities would require only 72.5 hours for Plaintiff's counsel to complete, at Plaintiff's counsel's lowest billing rate 25 of \$800 per hour, that still places at least \$58,000 in attorney's fees in controversy in this action.” NOR ¶ 47. 26 27 4 Defendants' other proposed data point—that it was awarded \$58,690.48 in fees in another wage and hour case, see NOR ¶ 47—is of no relevance since Defendants do not submit any evidence 28 regarding the claims in that case, the class size, or what was in dispute.

1 | V. CONCLUSION

2 For the foregoing reasons, Plaintiff's Motion to Remand is granted. 3 7 Ye 4 Dated: April 10, 2025 “ a Hernan D. Vera 5 United States District Judge 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28