

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Judith Mendoza v. Costco Wholesale Corporation, et al.

Mendoza v. Costco · No. 8:24-cv-00845-AJR · Decided November 19, 2025

SUMMARY

The United States District Court for the Central District of California denied Judith Mendoza’s second renewed motion to remand her premises-liability action to state court. The court held that Russell Follmer was not a properly joined defendant because Mendoza had not obtained leave to amend after entry of the scheduling order, and therefore his citizenship did not defeat diversity jurisdiction. The court also rejected Mendoza’s equitable-estoppel and attorney’s-fee arguments.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Joel Richlin
JURISDICTION	United States District Court for the Central District of California
DECIDED	November 19, 2025
DOCKET	8:24-cv-00845-AJR
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for a second renewed remand of a removed personal-injury action to state court. The federal district court denied the motion.
STANDARD OF REVIEW	Removal jurisdiction is strictly construed in favor of remand, and the party seeking removal bears the burden of establishing federal jurisdiction. The court also applied the standards governing reconsideration under Central District of California Local Rule 7-18 and Ninth Circuit precedent.
PRECEDENTIAL VALUE	unpublished district court memorandum decision; persuasive authority only
PARTIES	Judith Mendoza v. Costco Wholesale Corporation, Jimmy Johnson, Does 1 through 50

TOPICS

subject matter jurisdiction

civil procedure

attorney fees

federalism

PRACTICE AREAS

civil procedure

removal and remand

diversity jurisdiction

premises liability

QUESTIONS PRESENTED

1. Whether Plaintiff's second renewed motion to remand should be granted based on the alleged addition of Russell Follmer as a nondiverse defendant.
2. Whether the court should reconsider the district judge's prior rulings concerning Follmer's joinder and diversity jurisdiction.
3. Whether Defendant's email referring to remand equitably estopped Defendant from opposing remand.
4. Whether Plaintiff was entitled to attorney's fees and costs under 28 U.S.C. § 1447(c) despite denial of the motion to remand.

HOLDINGS

1. Only properly joined defendants may be considered in determining whether complete diversity exists. Because Plaintiff did not obtain leave of court to amend the Complaint after entry of the scheduling order, Follmer was not a defendant in the action and his citizenship did not defeat diversity jurisdiction.
2. Even if construed as a motion for reconsideration, the second renewed motion failed because Plaintiff did not identify newly discovered material facts, an intervening change in law, clear error, or a manifest failure to consider material facts.
3. Defendant's isolated email statement did not equitably estop Defendant from opposing remand and did not constitute a binding agreement to remand the action.
4. Plaintiff was not entitled to attorney's fees or costs because § 1447(c) authorizes such an award when a court grants a motion to remand, and the court denied Plaintiff's motion.

KEY QUOTATIONS

"This Court need not reconsider issues already decided by the District Judge multiple times" (at 5)

"Only the citizenship of properly joined defendants may be considered in determining whether diversity of citizenship exists." (at 7-8)

"the Court does not believe it is appropriate to enforce a one-off comment in an email as a binding agreement to remand the entire case." (at 9-10)

"Here, the Court has determined that it must deny Plaintiff's Second Renewed Motion to Remand. Accordingly, no fees or costs are authorized." (at 12-13)

FACTUAL BACKGROUND

Judith Mendoza alleged that she slipped and fell while shopping at a Costco store in La Habra, California, in May 2022. She sued Costco, Jimmy Johnson, and Doe defendants in California state court, and Costco removed the action based on diversity jurisdiction. During jurisdictional discovery, Plaintiff identified a possible Costco employee, Russell Follmer, and attempted to add him as a Doe defendant, but she did not obtain the required court permission to amend after entry of the scheduling order. The court determined that Follmer was not a properly joined defendant and that diversity jurisdiction therefore remained intact.

PROCEDURAL HISTORY

Plaintiff filed negligence and premises-liability claims in Orange County Superior Court after allegedly slipping and falling at a Costco store. Costco removed the action based on diversity jurisdiction. The district judge denied Plaintiff's first motion to remand after finding Jimmy Johnson fraudulently joined, and later denied a renewed motion after Plaintiff attempted to add Russell Follmer without obtaining leave under Federal Rule of Civil Procedure 16. After the parties consented to magistrate-judge jurisdiction, Plaintiff filed the second renewed motion to remand, which the court denied.

DISPOSITION

other

CASES CITED

- Harris v. Bankers Life and Cas. Co., 425 F.3d 689, 698 (9th Cir. 2005)
- Abrego Abrego v. Dow Chem. Co., 443 F.3d 676, 684 (9th Cir. 2006)
- Ethridge v. Harbor House Rest., 861 F.2d 1389, 1393 (9th Cir. 1988)
- United States v. Rezzonico, 32 F. Supp. 2d 1112, 1116 (D. Ariz. 1998)
- Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co., 571 F.3d 873, 880 (9th Cir. 2009)