

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

Juan Carlos Herrera v. C & J Clark America Inc, et al.

No. 3:25-cv-07072 (N.D. Cal. Nov. 13, 2025) · No. 3:25-cv-07072 · Decided November 13, 2025

OPINION

Herrera

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 JUAN CARLOS HERRERA, Case No. 25-cv-07072-JSC 8 Plaintiff,

ORDER DENYING PLAINTIFF'S

9 v. MOTION TO REMAND

10 C & J CLARK AMERICA INC, et al., Re: Dkt. No. 12 Defendants. 11 12 \ 13 \ 14 \ 15
Plaintiff brings this putative class action alleging various wage and hour claims under 16
California state law. (Dkt. No. 1-2.) 1 Plaintiff originally filed this suit in Alameda County 17
Superior Court, then Defendants removed the case to federal court based on the Class Action 18
Fairness Act (CAFA). (Dkt. No. 1.) Now pending before the Court is Plaintiff's motion to 19
remand. (Dkt. No. 12.) Plaintiff argues Defendants have not met their burden of proving the 20
amount in controversy exceeds \$5 million as required by CAFA. 21 After considering the parties'
written submissions, the Court concludes oral argument is 22 not required, see N.D. Cal. Civ. L.R.
7-1(b), and DENIES Plaintiff's motion. Defendants have 23 met their burden of proving, by a
preponderance of the evidence, the class size is at least 100 24 members, there is minimal
diversity of parties, and the aggregate amount in controversy exceeds 25 \$5 million, exclusive of
interest and costs. Plaintiff's requested wage statement penalties and 26 waiting time penalties
alone place at least \$7 million in controversy, and the Court cannot consider 27 1 the statutes of
limitations on these penalties to reduce the amount in controversy. *Greene v. 2 Harley-Davidson,*
Inc., 965 F.3d 767, 774 (9th Cir. 2020).

3 BACKGROUND

4 Defendants are corporate residents of Pennsylvania and Massachusetts. (Dkt. No. 1-1 ¶ 3.) 5
Plaintiff and putative class members are California residents who worked for Defendants for the 6
four years preceding the filing of the Complaint. (Dkt. No. 1-2 ¶¶ 1, 4, 15-22.) 7 On July 9, 2025,
Plaintiff filed the instant lawsuit in state court alleging causes of action 8 under California's wage
and hour laws for (1) failure to pay minimum wages; (2) failure to pay 9 wages and overtime
under Labor Code § 510; (3) failure to provide meal periods under Labor 10 Code § 226.7; (4)

failure to provide rest periods under Labor Code § 226.7; (5) failure to 11 reimburse necessary business expenditures under Labor Code § 2802; (6) violation of Labor Code 12 § 226(a); (7) failure to keep required payroll records under Labor Code §§ 1174 and 1174.5; (8) 13 penalties pursuant to Labor Code § 203; and (9) unfair competition under Business and 14 Professions Code § 17200. (Dkt. No. 1-2.) 15 Defendants filed the Notice of Removal on August 20, 2025. (Dkt. No. 1.) In the Notice, 16 Defendants contend removal is proper under CAFA, 28 U.S.C. § 1332(d)(2), because the case has 17 more than 100 putative class members, the amount in controversy exceeds \$5,000,000, and 18 Plaintiff is a citizen of California whereas Defendants are citizens of Pennsylvania and 19 Massachusetts. (Dkt. No. 1 ¶¶ 6-25.) Defendants estimate the amount in controversy is at least 20 \$71,926,040.45.2 (Dkt. No. 1 at 5-7.) Plaintiff’s motion for remand contends removal is improper 21 because the amount in controversy is less than \$5,000,000.

22 DISCUSSION

23 “CAFA gives federal district courts original jurisdiction over class actions in which the 24 class members number at least 100, at least one plaintiff is diverse in citizenship from any 25 defendant, and the aggregate amount in controversy exceeds \$5 million, exclusive of interest and 26 2 Defendants’ Notice of Removal noted Plaintiff’s prayer for attorneys’ fees, as well as Plaintiff’s 27 first, second, and seventh causes of action increase the amount in controversy, but did not estimate 1 costs.” *Ibarra v. Manheim Investments, Inc.*, 775 F.3d 1193, 1195 (9th Cir. 2015) (citing 28 2 U.S.C. § 1332(d)). Defendants, as the removing parties, bear the burden of establishing these 3 elements, that is, a prima facie case of removal jurisdiction. *Serrano v. 180 Connect, Inc.*, 478 4 F.3d 1018, 1021 (9th Cir. 2007); see also *id.* at 1024 (holding that in a CAFA case the removing 5 party bears the burden of establishing federal jurisdiction under 28 U.S.C. § 1332(d)(2)). Here, 6 there is no dispute the class size is at least 100 members or the minimal diversity requirement is 7 met. The parties dispute whether the amount in controversy exceeds \$5 million. 8 “Generally, the amount in controversy is determined from the face of the pleadings.” *Crum 9 v. Circus Circus Enters.*, 231 F.3d 1129, 1131 (9th Cir. 2000). Here, the complaint is silent as to 10 the amount in controversy because Plaintiff does not seek a specific dollar amount in damages and 11 penalties. (Dkt. No. 1-2 Prayer for Relief ¶¶ 2-17.) “A defendant’s amount in controversy 12 allegation is normally accepted when invoking CAFA jurisdiction, unless it is ‘contested by the 13 plaintiff or questioned by the court.’” *Jauregui v. Roadrunner Transportation Servs., Inc.*, 28 14 F.4th 989, 992 (9th Cir. 2022) (citing *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 15 U.S. 81, 87 (2014)). When, as here, a plaintiff contests a defendant’s allegations, “both sides 16 submit proof and the court decides, by a preponderance of the evidence, whether the amount-in- 17 controversy requirement has been satisfied[.]” *Dart Cherokee*, 574 U.S. at 88. 18 “The amount in controversy is the amount at stake in the underlying litigation.” *Fritsch v. 19 Swift Transportation Co. of Arizona, LLC*, 899 F.3d 785, 793 (9th Cir. 2018) (cleaned up). “The 20 amount in controversy is not a prospective assessment of a defendant’s liability,” *Chavez v. 21 JPMorgan Chase & Co.*, 888

F.3d 413, 417 (9th Cir. 2018), nor does the amount in controversy 22 refer to “likely or probable liability; rather, it refers to possible liability.” *Greene v. Harley- 23 Davidson, Inc.*, 965 F.3d 767, 772 (9th Cir. 2020). “Among other items, the amount in 24 controversy includes damages (compensatory, punitive, or otherwise)[.]” *Fritsch*, 899 F.3d at 793. 25 A. The Parties’ Estimates and Evidence 26 To estimate Plaintiff’s class size and damages, Defendants submitted a declaration from 27 Chris Melendez, the Vice President and Global Head of Defendants’ Human Resources 1 Defendants’ hourly employees in California who were issued paychecks during the class period of

2 July 2021 through August 2025. (*Id.* ¶ 4.) As relevant here, Defendants’ payroll data showed 3 during the class period: (1) Plaintiff’s classes consist of 1,058 employees, including 911 former 4 employees and 147 active employees; (2) class members were paid on a weekly basis, so the class 5 period consists of approximately 63,000 workweeks across all class members; (3) on average, the 6 former employees earned \$16.41 an hour and the active employees earned \$20.32 an hour; (4) on 7 average, the former employees worked 19.50 hours per week and the active employees worked 8 23.18 hours per week. (*Id.* ¶ 4.) 9 Based on these figures, Defendants’ Notice of Removal estimates the amount in 10 controversy is \$71,926,040.45, not including attorneys’ fees or Plaintiff’s first, second, or seventh 11 causes of action. (Dkt. No. 1 at 5-7.) Defendants estimated: (1) \$1,076,193 in damages for meal 12 break violations, assuming one violation per week across 1,058 employees; (2) \$1,076,193 in 13 damages for rest period violations, under the same assumptions, (3) \$420,000 in damages for cell 14 phone expenses that were not reimbursed, (4) \$4,232,000 in penalties for providing employees 15 with inaccurate wage statements, (5) \$2,915,154.45 in waiting time penalties for former 16 employees who did not timely receive pay following separation, and (6) \$62,206,500 in penalties 17 recoverable under California’s Private Attorneys General Act (“PAGA”). (*Id.*) Plaintiff’s motion 18 argued PAGA penalties cannot be aggregated to satisfy the CAFA’s amount-in-controversy 19 requirement, which Defendants did not dispute, so the Court will not include PAGA penalties in 20 the amount in controversy. 21 Based on Defendants’ payroll data, Plaintiff estimates the amount in controversy is 22 \$4,977,657.71. (Dkt. No. 12 at 12.) For purposes of his motion, Plaintiff accepts Defendants’ 23 estimated number of employees, their average wages, and the approximation they worked 63,000 24 workweeks. (Dkt. No. 12 at 8.)³ With these numbers as a starting point, Plaintiff estimated the 25 26 3 Plaintiff objects to the declaration of Andrew Mailhot, in which Mr. Mailhot attests to certain calculations of Defendants’ timesheet data. (Dkt. No. 14 at 5-6.) Mr. Mailhot purported to 27 calculate only “what percentage of shifts were longer than five hours in duration and, therefore, 1 amount in controversy after (1) challenging and replacing Defendants’ assumptions about the 2 number of meal and rest periods, violation rates, and business expenses; and (2) reducing the 3 amount in controversy for claims that are subject to a statute of limitations. (*Id.* at 8-12.) After 4 making deductions from Defendants’ estimate, Plaintiff agrees the amount in controversy is at 5 least \$4,977,657.71. (Dkt. No. 12 at 12.) 6 B. Defendants’ Evidence Shows the Amount in

Controversy Exceeds \$5 Million 7 The Court will only address the statute of limitations issue because it disposes of Plaintiff's 8 motion. Defendants estimate wage statement penalties and waiting time penalties add at least \$7 9 million in controversy over the four-year class period. (Dkt. No. 1 ¶¶ 13g, h.) Plaintiff does not 10 dispute Defendants' estimates of the amount each employee could recover in penalties. (Dkt. No. 11 12 at 11-12.)⁴ Instead, Plaintiff asserts a one-year statute of limitations applies to wage statement 12 penalties, meaning only one-fourth of class members can recover penalties. (Dkt. No. 12 at 11.) 13 So, Plaintiff estimates the amount in controversy is \$1,058,000 for wage statement penalties, i.e., 14 one-fourth of Defendants' estimate. (Dkt. No. 1 ¶ 13g; Dkt. No. 12 at 11.) Similarly, Plaintiff 15 asserts a three year-statute of limitations applies to waiting time penalties, which warrants an 16 amount-in-controversy estimate of \$2,186,365.84, i.e., three-fourths of Defendants' estimate. 17 (Dkt. No. 12 at 12 (citing *Pineda v. Bank of America, N.A.*, 50 Cal.4th 1389, 1393 (2010)).) 18 Accordingly, CAFA's \$5 million amount-in-controversy requirement is satisfied because 19 Defendants' uncontested evidence shows Plaintiff's requested penalties place at least \$7 million in 20 controversy, and under Ninth Circuit law, the Court cannot consider a potential statute of 21 limitations defense when calculating the amount in controversy. "It [is] improper for [a] district 22 court to consider [Defendant]'s potential statute of limitations defense ... to determine the amount 23 in controversy" because "[t]he amount in controversy represents only the amount at stake in the 24 underlying litigation, not the likely liability." *Greene*, 965 F.3d at 773–74 (cleaned up). In *Greene*, 25 26 4 For wage statement penalties, Plaintiff seeks penalties of up to \$4,000 per employee under California Labor Code § 226(a). (Dkt. No. 1-2 ¶ 64.) Defendants' estimate multiplies the \$4,000 27 maximum penalty across 1,058 employees. (Dkt. No. 1 ¶ 8.) The parties agree waiting time 1 the defendant removed a putative class action to federal court and the plaintiff argued the amount 2 in controversy was not met because a three-year statute of limitations precluded a punitive 3 damages award for unnamed class members. *Id.* at 770–71. The court ruled it was improper to 4 consider a potential statute-of-limitation affirmative defense as applied to unnamed class members 5 because "the 'strength of any defenses indicates the likelihood of the plaintiff prevailing; it is 6 irrelevant to determining the amount that is at stake in the litigation.'" *Id.* at 774 (quoting *Arias v. 7 Residence Inn by Marriott*, 936 F.3d 920, 928 (9th Cir. 2019)) (italics in original). "In other 8 words, 'just because a defendant might have a valid defense that will reduce recovery to below the 9 jurisdictional amount does not mean the defendant will ultimately prevail on that defense.'" *Id.* 10 (citing *Geographic Expeditions, Inc. v. Estate of Lhotka ex rel. Lhotka*, 599 F.3d 1102, 1108 (9th 11 Cir. 2010)); see also *Jauregui*, 28 F.4th at 994 n.6 (holding, in a putative wage and hour class 12 action, a plaintiff's "reliance on various statutes of limitations to challenge [a defendant]'s 13 calculations ... confuses the amount in controversy with the amount that will ultimately be 14 recovered.") Plaintiff cites no Ninth Circuit case law to the contrary. (Dkt. No. 14 at 7-8.)⁵ 15 Plaintiff's argument "*Greene* ... does not hold that incorporating the statute of limitations 16 when

calculating the amount in controversy is improper” (Dkt. No. 14 at 7) is unavailing. Greene 17 plainly held “[t]he district court erred in considering the merits of [Defendant]’s affirmative 18 defense to determine the amount in controversy.” 965 F.3d at 774. Despite this clear holding, 19 Plaintiff asserts “[t]he Greene court itself disclaims such a conclusion” when Greene stated: 20 Greene argues that courts can inquire into potential recovery in assessing the amount in controversy, citing *Pachinger v. MGM Grand 21 Hotel-Las Vegas, Inc.*, 802 F.2d 362, 364 (9th Cir. 1986), and *Morris v. Hotel Riviera, Inc.*, 704 F.2d 1113, 1115 (9th Cir. 1983). But in 22 those cases, the underlying statute itself limited the damages available, and there was no need to delve into the merits of the defense 23 24 5 *Soto v. Greif Packaging LLC*, 2018 WL 1224425 *5 (C.D. Cal. 2018) is unpersuasive because it pre-dates Greene and did not cite any Ninth Circuit case supporting the holding “[w]hen 25 determining the amount in controversy, the Court cannot disregard the applicable statute of limitations.” *Id.* at *5. Rather, Soto cited three district court cases for that holding, *id.*, none of 26 which cited a Ninth Circuit case holding a statute of limitations can be considered for amount-in- controversy purposes. See *Feao v. UFP Riverside, LLC*, 2017 *4 (C.D. Cal. Jun. 29, 2017); *Phan 27 v. Sears, Roebuck & Co.*, 2016 WL 1408057 *2 (C.D. Cal. Apr. 11, 2016); *Unutoa v. Interstate* or case. In contrast, evaluating a potential statute of limitations 1 defense involves a fact-based analysis of the merits, especially in a case such as this where (1) Greene’s allegations involve fraud and 2 concealment and (2) his complaint alleged that all statutes of limitations should be tolled. 3 (Dkt. No. 14 at 7 (citing Greene, 965 F.3d at 774)). Plaintiff emphasizes: (1) Greene distinguished 4 its facts from cases where “the underlying statute itself limited the damages available,” and (2) 5 unlike Plaintiff here, the Greene plaintiff alleged statutes of limitations should be tolled. (*Id.*) 6 Plaintiff’s interpretation of Greene is wrong on both fronts. As to Plaintiff’s first argument, 7 Greene’s distinctions to *Pachinger* and *Morris* undermine Plaintiff’s position. *Pachinger* and 8 *Morris* addressed situations where “a rule of law or limitation of damages limits the amount of 9 damages recoverable,” thereby making it a “legal certainty” damages will fall below the amount- 10 in-controversy requirement. *Pachinger*, 802 F.2d at 364; *Morris*, 702 F.2d at 1115. In both cases, 11 the “rule or measure of damages” at issue was a Nevada innkeeper statute limiting a hotel’s 12 liability to \$750. *Pachinger*, 802 F.2d at 363; *Morris*, 702 F.2d at 1114. Simply put, for amount- 13 in-controversy purposes, Greene distinguished a statute of limitations from a “rule or measure of 14 damages” because the former is a merits inquiry, whereas the latter is a question of whether a rule 15 or statute applies to a set of allegations. Compare *Pachinger*, 702 F.2d at 1115 (“[I]n the few cases 16 involving a rule or measure of damages that limits liability, we may go beyond the pleadings for 17 the limited purpose of determining the applicability of the rule or measure of damages.”), and 18 *Morris*, 702 F.2d at 1114 (“[T]he Innkeeper Statute clearly limits the amount of damages[.]”), with 19 *Greene*, 952 F.3d at 774 (“[I]n those cases, the underlying statute itself limited the damages 20 available, and there was no need to delve into the merits of the defense or case. In contrast, 21 evaluating a potential statute of limitations defense involves a fact-based analysis of the merits[.]”) 22 Here,

like the plaintiff in *Greene*, Plaintiff is asking the Court to impermissibly consider the merits of a statute of limitations as applied to unnamed class members to determine the amount in controversy. As to Plaintiff's second argument, nothing in *Greene* suggests its holding is limited to situations where a plaintiff alleges a statute of limitations should be tolled. Rather, the paragraph quoted by Plaintiff observed, as a general matter, "a potential statute of limitations defense involves a fact-based analysis of the merits," then reasoned that observation was "especially" pertinent given the plaintiff's tolling allegations. *Greene*, 965 F.3d at 774. Additionally, the Ninth Circuit since *Greene* has cautioned a "[p]laintiff's reliance on various statute of limitations to challenge [a defendant]'s calculations ... confuses the amount in controversy with the amount that will ultimately be recovered." *Jauregui*, 28 F.4th at 994 n.6. *Jauregui* did not mention whether its plaintiff alleged a tolling of statute of limitations, see generally *id.*, presumably because tolling allegations were not necessary to *Greene*'s holding. Finally, Plaintiff's argument statutes of limitations make recovery in excess of \$5 million a "legal impossibility" (Dkt. No. 12 at 12) is unavailing. Plaintiff's cited cases are inapposite because neither addressed the question here, namely whether an affirmative defense should be considered for amount in controversy purposes. *Lewis v. Verizon Communications, Inc.*, 627 F.3d 1239 (9th Cir. 2010) did not address a statute of limitations, let alone hold such a defense makes recovery "legally impossible." *Id.* at 399. Likewise, *Brady v. Mercedes-Benz USA, Inc.*, 243 F. Supp. 2d 1004 (N.D. Cal. 2002) held damages must be "recoverable" to be part of the amount in

controversy, which has nothing to do with affirmative defenses because "recoverable" in the context there meant "authorized by" a statute. See *id.* at 1009 (collecting cases where "treble damages authorized by state law may be included in determining the amount in controversy"). In any event, for the Court to conclude it is "legally impossible" for Plaintiff to recover more than \$5 million in penalties "would smuggle in merits-based arguments into the jurisdictional inquiry, which is supposed to be simple and mechanical." *Greene*, 965 F.3d at 774 (cleaned up). Accordingly, Defendants have met their burden of showing the amount in controversy exceeds \$5 million, as required by the Class Action Fairness Act.

CONCLUSION

For the reasons set above, Defendants have shown, by a preponderance of the evidence, the class size is at least 100 members, at least one plaintiff is diverse in citizenship from any defendant, and the aggregate amount in controversy exceeds \$5 million. So, the Court DENIES Plaintiff's motion to remand. The initial Case Management Conference set for Tuesday, 1 This Order disposes of Docket No. 12. 2 IT IS SO ORDERED. 3 Dated: November 13, 2025 4 5 ne 6 ACQUELINE SCOTT CORLE

United States District Judge 7 8 9 10 11 12 13 © 15 16 = 17 Z 18 19 20 21 22 23 24 25 26 27 28

