

**UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WASHINGTON**

John Milito v. Lucid Group USA Inc., et al.

No. C25-1664JLR (W.D. Wash. Dec. 16, 2025) · No. C25-1664JLR · Decided December 16, 2025

OPINION

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE 9 10 JOHN MILITO, CASE NO. C25-1664JLR 11 Plaintiff, ORDER v. 12
LUCID GROUP USA INC., et al., 13 Defendants. 14 15 I. INTRODUCTION 16 Before the court
is Plaintiff John Milito’s motion to remand this matter to state 17 court. (MTR (Dkt. # 10); Reply
(Dkt. # 13).) Defendants Lucid Group USA, Inc. and 18 Lucid USA, Inc. (together, “Lucid USA”)
oppose the motion.

(Resp. (Dkt. # 11).) The 19 court has reviewed the parties’ submissions, the relevant portions of
the record, and the 20 governing law. Being fully advised,¹ the court GRANTS Mr. Milito’s
motion to remand. 21 1 The parties do not request oral argument, and the court concludes that oral
argument is 22 not necessary to decide the motion. See Local Rules W.D. Wash. LCR 7(b)(4).

1 II. BACKGROUND 2 Mr. Milito alleges that Lucid USA and other yet unknown Washington
entities 3 (collectively, “Defendants”) violated the Washington Equal Pay and Opportunities Act 4
 (“EPOA”), RCW 49.58.110, by publishing defective job postings that did not disclose the 5 wage
scale and benefits being offered to the hired applicant. (Compl. (Dkt. # 1-1) ¶¶ 1-2, 6 10.)

Mr. Milito initiated this putative class action in King County Superior Court on 7 July 22, 2025.
(See 8/28/25 Not. (Dkt. # 1) at 2.) On August 28, 2025, Lucid USA 8 removed this case to this
court, asserting that federal jurisdiction is proper based on 28 9 U.S.C. § 1332(d), the Class Action
Fairness Act of 2005 (“CAFA”), as well as 28 U.S.C. 10 § 1332(a), diversity jurisdiction.

(Id. at 3-8.) On September 26, 2025, Mr. Milito moved 11 to remand this action to state court for
lack of Article III standing, failure to establish that 12 the requisite amount in controversy exists
for diversity jurisdiction, and failure to 13 establish the requisite numerosity or amount in
controversy for CAFA. (See MTR at 14 1-2.) 15 On September 4, 2025, the Washington Supreme
Court issued its decision in 16 *Branson v. Washington Fine Wine & Spirits, LLC*, 574 P.3d 1031
(Wash.

2025). The 17 Court addressed the question of what a plaintiff must prove to be considered a “job
18 applicant” within the meaning of RCW 49.58.110(4)—and specifically, whether the 19
applicant must prove they are a bona fide applicant. *Branson*, 574 P.3d at 1034.

The 20 Washington Supreme Court held: 21 A job applicant need not prove they are a ‘bona fide’ applicant to be deemed a ‘job applicant.’ Rather, in accordance with the plain language of RCW 22 49.58.110(4), a person must apply to any solicitation intended to recruit job 1 applicants for a specific available position to be considered a ‘job applicant,’ regardless of the person’s subjective intent in applying for the specific 2 position.

3 Id. at 1040. Briefing on Mr. Milito’s motion to remand is complete and the issue is ripe 4 for the court’s review. 5 III. ANALYSIS 6 As discussed below, the court concludes that Mr. Milito lacks standing to pursue 7 his EPOA claim in federal court.

Therefore, the court grants Mr. Milito’s motion to 8 remand. 9 A defendant may remove a case initially filed in state court to federal court if the 10 case could have originally been brought in federal court. 28 U.S.C. § 1441(a).

The court 11 construes removal jurisdiction in favor of remand to protect state court jurisdiction. 12 *Harris v. Bankers Life & Cas. Co.*, 425 F.3d 689, 698 (9th Cir. 2005). Because removal 13 and subject matter jurisdiction statutes are “strictly construed,” a “defendant seeking 14 removal has the burden to establish that removal is proper.” *Hawaii ex rel. Louie v. 15 HSBC Bank Nevada, N.A.*, 761 F.3d 1027, 1034 (9th Cir.

2014) (citing *Luther v. 16 Countrywide Home Loans Servicing LP*, 533 F.3d 1031, 1034 (9th Cir. 2008)). If there is 17 any doubt as to the right of removal, the court must reject jurisdiction. *Id.* If the plaintiff 18 lacks Article III standing to pursue its case in federal court, the court must remand the 19 case rather than dismiss it. *Polo v. Innoventions Int’l, LLC*, 833 F.3d 1193, 1196 (9th 20 Cir.

2016). 21 The parties dispute whether Mr. Milito has Article III standing in this court. (See 22 MTR at 3-9 (arguing Mr. Milito does not have standing because he failed to allege he 1 was a bona fide applicant, or that that he engaged in pay negotiations or was offered an 2 interview); see Resp. at 9-15 (arguing dismissal, rather than remand, is appropriate if the 3 court believes it lacks jurisdiction because Mr. Milito “explicitly argues he has not 4 alleged any injury-in-fact” and “Washington courts, like federal courts, require a plaintiff 5 to have standing to pursue a claim.”).)

Standing is a “threshold question in every federal 6 case, determining the power of the court to entertain the suit[.]” *Warth v. Seldin*, 422 U.S. 7 490, 498 (1975), and standing requirements “can neither be waived by the parties nor 8 ignored by the court[.]” *Yakima Valley Mem’l Hosp. v. Wash. State Dep’t of Health*, 654 9 F.3d 919, 932 n.17 (9th Cir. 2011).

In a challenge to Article III standing, “[t]he burden 10 of showing that there is standing rests on the shoulders of the party asserting” that 11 standing is proper in the case. *Smelt v. Cty. of Orange*, 447 F.3d 673, 682 (9th Cir. 2006) 12 (citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992)). 13 To establish standing and successfully challenge the motion to remand, *Lucid 14 USA*

must show that Mr. Milito has suffered an injury-in-fact that is (1) concrete and 15 particularized, (2) actual or imminent, (3) fairly traceable to Defendants’ conduct, and 16 (4) likely to be redressed by a favorable decision.

Cal. Sea Urchin Comm’n v. Bean, 883 F.3d 1173, 1180 (9th Cir. 2018), as amended (Apr. 18, 2018). To decide whether a 18 statutory violation constitutes a concrete harm or injury-in-fact, the court considers 19 (1) “whether the statutory provisions at issue were established to protect... concrete 20 interests (as opposed to purely procedural rights)” and (2) “whether the specific 21 procedural violations alleged in [the] case actually harm, or present a material risk of 22 1 harm to, such interests.” *Magadia v. Wal-Mart Assocs., Inc.*, 999 F.3d 668, 679 (9th Cir.

2 2021). 3 The court concludes that Lucid USA fails to meet its burden to show Mr. Milito 4 has standing and that removal to this court is proper. *Smelt*, 447 F.3d at 682. Lucid USA 5 has not shown that Mr. Milito suffered an injury that was concrete and particularized or 6 actual or imminent. *Lujan*, 504 U.S. at 560-61. Lucid USA also has not shown that Mr. 7 Milito has alleged a “material risk of harm[.]” *Magadia*, 999 F.3d at 679.

Mr. Milito 8 asserts that the withheld pay scale and wage range information, caused him to “los[e] 9 valuable time,” affected his “ability to negotiate,” and left him “unable to evaluate the 10 pay and benefits for the position and compare it to other available positions in the 11 marketplace.” (Compl. ¶¶ 29-33.)

However, these allegations do not demonstrate that 12 Mr. Milito suffered any actual injuries that the EPOA was intended to prevent, such as 13 unfair pay negotiations or wasting time in interviews. *Hill v. ACV Auctions Inc.*, No. 14 C25-0616MJP, 2025 WL 1582249, at *3 (W.D. Wash. June 4, 2025). Mr. Milito has not 15 alleged that he was offered an interview, that he engaged in any pay negotiations, or that 16 he was even qualified for the position.

The time Mr. Milito “lost” in submitting his 17 application is not an injury that the EPOA seeks to prevent or redress. See *Partridge v. 18 Heartland Express Inc. of Iowa*, No. C24-5486DGE, 2024 WL 4164245, at *4 (W.D. 19 Wash. Sept. 12, 2024) (“A generalized assertion of time lost, therefore, does not support 20 Article III standing.”); see also *Floyd v. Photon Infotech Inc.*, No. C24-01372KKE, 2025 21 WL 3442736, at *3 (W.D.

Wash. Dec. 1, 2025) (internal quotation marks and citation 22 omitted) (observing that “a nominal applicant with no interest in the position will neither 1 receive a benefit from early pay disclosure nor be harmed by the lack thereof”). 2 Furthermore, the Washington Supreme Court’s decision in *Branson* does not change this 3 Court’s Article III standing analysis.

See *Floyd*, 2025 WL 3442736, at *3 (holding that 4 *Branson* “did not purport to address whether an EPOA violation harms [job applicants’] 5 concrete interests for Article III standing purposes”) (citing *Branson*, 574 P.3d at 1040). 6 Therefore, Mr. Milito has failed to identify a concrete and

particularized injury sufficient 7 to satisfy Article III standing. 8 Lucid USA argues that the court should apply the “futility exception” and dismiss 9 the instant matter rather than remand it.

(Resp. at 10-13.) Lucid USA contends that 10 “dismissal (rather than remand) is appropriate because [Mr. Milito] explicitly argues he 11 has not alleged any injury-in-fact” and “this admission is fatal to any standing analysis in 12 state court, as well” because “Washington courts, like federal courts, require a plaintiff to 13 have standing to pursue a claim.” (Id. at 10.)

If the court is inclined to remand the case, 14 however, Lucid USA requests 60 days to engage in jurisdictional discovery regarding Mr. 15 Milito’s argument that his complaint does not sufficiently allege an injury in fact. (Id. at 16 13-15.) 17 The court rejects Lucid USA’s contention that remand would be futile and the 18 court should dismiss the instant matter, or that jurisdictional discovery is necessary. “If 19 at any time before final judgment it appears that the district court lacks subject matter 20 jurisdiction, the case shall be remanded...

Moreover, the district court generally must 21 remand the case to state court, rather than dismiss it.” Polo, 833 F.3d at 1196 (citations 22 omitted) (emphasis in original). “[A] district court must have ‘absolute certainty’ that a 1 state court would ‘simply dismiss[] the action on remand.’ In other words, only when the 2 eventual outcome of a case after remand is so clear as to be foreordained have we held 3 that a district court may dismiss it—to ‘prevent[] any further waste of valuable judicial 4 time and resources.’” Id. at 1198 (citation omitted).

Here, as this court has repeatedly 5 observed, it is not “absolutely certain” and “so clear as to be foreordained” that a state 6 court would dismiss Mr. Milito’s claim. See *Voivod v. Pyramid Theodore Management 7 LLC*, C25-1927JHC, 2025 WL 3540918, at *1 (W.D. Wash. Dec. 10, 2025) (compiling 8 cases). “[J]urisdictional discovery would not be appropriate in this matter [because] [i]t 9 is apparent on the face of the [c]omplaint that [plaintiff] lacks standing, and none of the 10 jurisdictional discovery [defendant] seeks or would be entitled to would alter that 11 calculus.” *Kent v. HCL Techs.*

Ltd., No. C24-1332MJP, 2024 WL 4825383, at *4 (W.D. 12 Wash. Nov. 19, 2024). 13 Because Lucid USA has not shown that Mr. Milito sufficiently alleged an 14 injury-in-fact, it fails to establish Mr. Milito has Article III standing in this court. Cal. 15 *Sea Urchin Comm’n v. Bean*, 883 F.3d at 1180.

Therefore, the court grants Mr. Milito’s 16 motion to remand. 17 IV. CONCLUSION 18 For the foregoing reasons, the court GRANTS Mr. Milito’s motion to remand 19 (Dkt. # 10). This case is REMANDED to the King County Superior Court. 20 Dated this 16th day of December, 2025. A 21 JAMES L. ROBART 22 United States District Judge

