

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Marie Teresa Acosta Zarate v. Walmart Stores, Inc., et al.

Acosta Zarate v. Walmart · No. 2:25-cv-02801-HDV-Ex · Decided July 11, 2025

SUMMARY

The court grants Plaintiff Marie Teresa Acosta Zarate’s motion to remand her slip-and-fall action to Los Angeles Superior Court. The court finds that store manager Juan Cruz Nunez was not fraudulently joined because Plaintiff’s negligence claim against him was facially valid and Walmart failed to establish fraudulent joinder by clear and convincing evidence. The court also concludes that the relevant joinder factors support remand.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Hernan D. Vera
JURISDICTION	United States District Court, Central District of California
DECIDED	July 11, 2025
DOCKET	2:25-cv-02801-HDV-Ex
DISPOSITION	remanded
PROCEDURAL POSTURE	Plaintiff moved to remand a diversity action after amending her state-court complaint to add California store manager Juan Cruz Nunez as a defendant. Defendants opposed remand, arguing that Nunez was fraudulently or sham joined solely to defeat diversity jurisdiction.
STANDARD OF REVIEW	On a fraudulent-joinder/remand motion, the court resolves disputed factual questions in the plaintiff's favor, accepts the plaintiff's allegations as true, applies a strong presumption in favor of remand, and requires the removing defendant to establish fraudulent joinder by clear and convincing evidence.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- subject matter jurisdiction
- joinder
- civil procedure
- premises liability
- negligence

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Nunez was fraudulently joined such that his California citizenship should be disregarded for purposes of diversity jurisdiction.
2. Whether Plaintiff's negligence claim against Nunez was facially valid and therefore supported joinder and remand.
3. Whether the relevant joinder factors under 28 U.S.C. § 1447 supported permitting Nunez's joinder and remanding the action.

HOLDINGS

1. Nunez was not fraudulently joined because Plaintiff stated a facially valid negligence claim against him, and Walmart did not prove fraudulent joinder by clear and convincing evidence.
2. California Labor Code section 2802 does not immunize an employee from suit and does not prevent a plaintiff from naming both the employer and employee as defendants.
3. The action had to be remanded to Los Angeles Superior Court because the properly joined California defendant defeated complete diversity and the removal basis was therefore insufficient.

KEY QUOTATIONS

“Plaintiff’s negligence claim against the manager is facially valid, and Walmart has failed to overcome the strong presumption in favor of remand applicable here.” (at 1)

“Indeed, if “there is a possibility that a state court would find that the complaint states a cause of action against any of the resident defendants, the federal court must find that the joinder was proper and remand the case to the state court.”” (at 3)

“But Section 2802 is not an immunity doctrine; Plaintiff may properly maintain an action against both Nunez and Walmart.” (at 4)

FACTUAL BACKGROUND

Plaintiff alleged that she slipped and fell on a puddle inside a Walmart store in Downey, California, on October 4, 2023, sustaining injuries and significant medical expenses. She asserted premises-liability and negligence claims against Walmart and alleged that store manager Juan Cruz Nunez knew or should have known of the dangerous condition but failed to correct it. Plaintiff amended her complaint after removal to add Nunez, and Walmart argued that he was a sham defendant because his joinder destroyed complete diversity.

PROCEDURAL HISTORY

Plaintiff filed a premises-liability and negligence action in Los Angeles Superior Court. Walmart removed the action to federal court based on diversity jurisdiction, and Plaintiff later amended the complaint to add Nunez. After Plaintiff moved to remand, the court heard oral argument on June 5, 2025, took the matter under submission, granted the motion, and remanded the case to Los Angeles Superior Court.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The case was remanded to the Los Angeles Superior Court.

CASES CITED

- Padilla v. AT&T Corp., 697 F. Supp. 2d 1156, 1158 (C.D. Cal. 2009)
- Kruse v. Int'l Tel. & Tel. Corp., 872 F.2d 1416, 1426 (9th Cir. 1989)
- Exxon Mobil Corp. v. Allapattah Services, Inc., 545 U.S. 546, 553 (2005)
- Strawbridge v. Curtiss, 7 U.S. 267 (1806)
- Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992)
- Libhart v. Santa Monica Dairy Co., 592 F.2d 1062, 1064 (9th Cir. 1979)
- Caterpillar, Inc. v. Lewis, 519 U.S. 61, 68 (1996)
- Grancare, LLC v. Thrower by & through Mills, 889 F.3d 543, 548 (9th Cir. 2018)
- Hamilton Materials, Inc. v. Dow Chem. Corp., 494 F.3d 1203, 1206 (9th Cir. 2007)
- Dirkes v. Sam's West, Inc., No. 2:22-CV-03466-JLS-MAR, 2022 WL 17098672, at *2, *4 (C.D. Cal. Sept. 7, 2022)
- IBC Aviation Servs., Inc. v. Compania Mexicana de Aviacion, S.A. de C.V., 125 F. Supp. 2d 1008, 1012 (N.D. Cal. 2000)
- Trujillo v. Target Corp., No. 2:17-CV-06429-VAP, 2017 WL 4864490, at *2 (C.D. Cal. Oct. 26, 2017)
- Davis v. Wal-Mart Stores Inc., No. 2:16-CV-9480-JFW, 2017 WL 499595, at *5 (C.D. Cal. Feb. 6, 2017)
- Fayek v. Costco Wholesale Corp., No. 8-22-CV-01621-JVS-ADSX, 2023 WL 2431999, at *3 (C.D. Cal. Mar. 9, 2023)
- Fortenberry v. Walmart Inc., No. EDCV 23-2601-KK-SHKX, 2024 WL 1343166, at *6 (C.D. Cal. Mar. 29, 2024)
- Khachunts v. Gen. Ins. Co. of Am., No. 2-22-CV-09325-SPG-KSx, 2023 WL 4554103, at *4 (C.D. Cal. July 14, 2023)
- Prudenciano Flores v. Nissan N. Am., Inc., No. CV-21-09411-RSWL-PDx, 2022 WL 1469424, at *4 (C.D. Cal. May 9, 2022)