

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

Trevino v. The Lubrizol Corporation

Trevino · No. 1:23-CV-01005-KES-CDB · Decided March 24, 2025

SUMMARY

The United States District Court for the Eastern District of California granted plaintiff’s motion to remand and denied defendants’ motion for judgment on the pleadings as moot. The court held that defendants had not shown that the nondiverse California defendants were fraudulently joined because plaintiff could potentially amend his complaint to state an intentional infliction of emotional distress claim based on alleged disability discrimination. The case was remanded to Kern County Superior Court for lack of subject matter jurisdiction.

CASE DETAILS

|                    |                                                                                                                                                                                                                                                                                                                                                                                                    |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT              | United States District Court for the Eastern District of California                                                                                                                                                                                                                                                                                                                                |
| JURISDICTION       | United States District Court for the Eastern District of California                                                                                                                                                                                                                                                                                                                                |
| DECIDED            | March 24, 2025                                                                                                                                                                                                                                                                                                                                                                                     |
| DOCKET             | 1:23-CV-01005-KES-CDB                                                                                                                                                                                                                                                                                                                                                                              |
| DISPOSITION        | remanded                                                                                                                                                                                                                                                                                                                                                                                           |
| PROCEDURAL POSTURE | Plaintiff moved to remand a removed state-court action for lack of complete diversity, while defendants moved for judgment on the pleadings directed to the intentional-infliction-of-emotional-distress claim.                                                                                                                                                                                    |
| STANDARD OF REVIEW | Removal statutes are strictly construed against removal, and the removing party bears the burden of establishing federal jurisdiction by a preponderance of the evidence. On fraudulent joinder, the court asks whether there is any possibility that a state court would find that the complaint states a cause of action against a resident defendant, resolving ambiguities in favor of remand. |
| PRECEDENTIAL VALUE | unpublished district court order                                                                                                                                                                                                                                                                                                                                                                   |
| PARTIES            | Vincent Trevino v. The Lubrizol Corporation, Chemtool Incorporated, Kevin Oakley, Preston                                                                                                                                                                                                                                                                                                          |

TOPICS

subject matter jurisdiction

motion for judgment on the pleadings

civil procedure

ada / disability

retaliation

## PRACTICE AREAS

civil procedure

employment law

civil rights

disability discrimination

torts

## QUESTIONS PRESENTED

1. Whether the nondiverse defendants Oakley and Preston were fraudulently joined so that their California citizenship could be disregarded for purposes of diversity jurisdiction.
2. Whether the possibility that plaintiff could amend his complaint to state a colorable intentional-infliction-of-emotional-distress claim against Oakley or Preston required remand.
3. Whether defendants' motion for judgment on the pleadings should be decided after the action was remanded.

## HOLDINGS

1. Oakley and Preston were not fraudulently joined because plaintiff demonstrated a non-fanciful possibility that he could amend his complaint to state a colorable intentional-infliction-of-emotional-distress claim against either defendant based on discriminatory conduct following his workplace injury.
2. The court lacked diversity subject matter jurisdiction because Oakley and Preston were California citizens and were not shown to have been fraudulently joined, destroying complete diversity.
3. The motion for judgment on the pleadings was denied as moot after the action was remanded for lack of subject matter jurisdiction.

## KEY QUOTATIONS

*“If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded.”* (at 2)

*“If there is even 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 2)

*“Defendants’ argument is unavailing, as such factual disputes cannot serve as the basis of a finding of fraudulent joinder.”* (at 3)

*“Accordingly, Oakley and Preston were not fraudulently joined, and their California citizenship destroys complete diversity, depriving this Court of jurisdiction.”* (at 4)

## FACTUAL BACKGROUND

Trevino alleged that defendants harassed, discriminated against, and retaliated against him after he reported hazardous workplace conditions and sought reasonable accommodations for a medical condition or disability. He alleged that he inhaled a caustic substance at work on November 4, 2021, reported the injury to Oakley, and

sought medical care. He further alleged that Oakley and Preston retaliated against him, discriminated against him based on his medical condition or disability, and ultimately caused his termination on November 4, 2022. The court concluded that proposed amended allegations could potentially support an intentional-infliction-of-emotional-distress claim against Oakley or Preston based on post-injury discriminatory conduct.

## PROCEDURAL HISTORY

Plaintiff filed the action in Kern County Superior Court on June 2, 2023. Lubrizol removed the action on June 30, 2023, asserting diversity jurisdiction and fraudulent joinder of California defendants Oakley and Preston. The district court granted the motion to remand, denied the motion for judgment on the pleadings as moot, and directed the clerk to close the case.

## DISPOSITION

remanded

## REMAND INSTRUCTIONS

The action was remanded to Kern County Superior Court for lack of subject matter jurisdiction. The clerk was directed to mail a copy of the order to the Kern County Superior Court clerk and close the federal case.

## CASES CITED

- Academy of Country Music v. Continental Casualty Co., 991 F.3d 1059, 1061 (9th Cir. 2021)
- California ex rel. Lockyer v. Dynegy, Inc., 375 F.3d 831, 838 (9th Cir. 2004)
- Matheson v. Progressive Specialty Insurance Co., 319 F.3d 1089, 1090-91 (9th Cir. 2003)
- Hunter v. Philip Morris USA, 582 F.3d 1039, 1043, 1046 (9th Cir. 2009)
- Kantor v. Wellesley Galleries, Ltd., 704 F.2d 1088, 1090 (9th Cir. 1983)
- Johnson v. Columbia Properties Anchorage, LP, 437 F.3d 894, 899 (9th Cir. 2006)
- Grancare, LLC v. Thrower, 889 F.3d 543, 548-50 (9th Cir. 2018)
- Ritchey v. Upjohn Drug Co., 139 F.3d 1313, 1318 (9th Cir. 1998)
- Manguno v. Prudential Property & Casualty Insurance Co., 276 F.3d 720, 723 (5th Cir. 2002)
- Hughes v. Pair, 95 Cal. Rptr. 3d 636, 651 (Cal. 2009)
- Haley v. Cohen & Steers Capital Management, Inc., 871 F. Supp. 2d 944, 960 (N.D. Cal. 2012)
- Langevin v. Federal Express Corp., No. CV 14-08105 MMM (FFMx), 2015 WL 1006367, at \*9-\*10, \*12 (C.D. Cal. Mar. 6, 2015)
- Livitsanos v. Superior Court, 7 Cal. Rptr. 2d 808, 815 (Cal. 1992)
- Miklosy v. Regents of the University of California, 44 Cal. 4th 876, 902-03 (2008)
- Calero v. Unisys Corp., 271 F. Supp. 2d 1172, 1181 (N.D. Cal. 2003)
- Hassler v. Talbots, Inc., No. CV-19-5793-DMG (FFMx), 2019 WL 4221390, at \*3 (C.D. Cal. Sept. 5, 2019)
- Schneider v. TRW, Inc., 938 F.2d 986, 992-93 (9th Cir. 1991)
- Martinez v. Costco Wholesale Corp., 481 F. Supp. 3d 1076, 1102 (S.D. Cal. 2020)

- *Light v. Department of Parks & Recreation*, 221 Cal. Rptr. 3d 668, 687 (Cal. Ct. App. 2017)

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