

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Espinoza v. Target Corporation

Espinoza · No. 25-cv-05634-LB · Decided August 21, 2025

SUMMARY

The United States District Court for the Northern District of California denied Sharon Espinoza’s motion to remand her negligence and premises-liability action against Target Corporation. The court held that the initial complaint and amended complaint did not provide unequivocally clear notice that the case was removable based on diversity jurisdiction because the pleadings alleged residence but did not establish citizenship or domicile at the time of filing. Removal was timely because Target removed within thirty days after receiving interrogatory responses establishing that Espinoza had lived in San Francisco since 1976.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Laurel Beeler
JURISDICTION	United States District Court for the Northern District of California
DECIDED	August 21, 2025
DOCKET	25-cv-05634-LB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved to remand a removed diversity action to state court and sought attorney fees. The district court denied the motion.
STANDARD OF REVIEW	The removing party bears the burden of establishing federal jurisdiction, and removal statutes are strictly construed, with doubts resolved against federal jurisdiction.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

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

PRACTICE AREAS

- civil procedure
- premises liability
- negligence

QUESTIONS PRESENTED

1. Whether the initial complaint or amended complaint provided unequivocally clear and certain notice that the action was removable on diversity-jurisdiction grounds.
2. Whether a prelitigation demand containing the plaintiff's San Francisco address constituted 'other paper' triggering the second thirty-day removal period under 28 U.S.C. § 1446(b)(3).
3. Whether Target timely removed the action within thirty days after receiving the plaintiff's interrogatory response establishing information relevant to her domicile.

HOLDINGS

1. The initial complaint did not trigger the first thirty-day removal period because it did not specify the plaintiff's residence or otherwise provide clear notice of complete diversity.
2. The prelitigation demand did not trigger the second thirty-day removal period because it was sent before the initial pleading and therefore was not 'other paper' under 28 U.S.C. § 1446(b)(3).
3. The amended complaint did not provide unequivocally clear and certain notice of removability because its present-tense allegation that Espinoza resided in San Francisco did not establish her citizenship or domicile when the lawsuit was filed.
4. The interrogatory response constituted qualifying information from which removability could first be ascertained, and Target timely removed the action within thirty days after receiving it.

KEY QUOTATIONS

“Sections 1446(b)(1) and (3) are bright-line rules requiring information to be “unequivocally clear and certain” to support removability.” (Analysis)

“Residency alone does not establish citizenship or domicile for diversity purposes.” (Analysis)

“The court denies the motion to remand.” (Conclusion)

FACTUAL BACKGROUND

Espinoza was injured after slipping at a Target store in San Francisco on January 13, 2023. She sued Target for negligence and premises liability in state court on October 15, 2024. Her initial complaint did not allege her residence; her amended complaint alleged in the present tense that she resided in San Francisco. In response to Target's interrogatory, she stated on June 17, 2025, that she had lived at her San Francisco address since 1976, after which Target removed the case.

PROCEDURAL HISTORY

Sharon Espinoza filed a negligence and premises-liability action against Target Corporation in California state court on October 15, 2024. She filed an amended complaint on March 24, 2025. Target removed the action on July 3, 2025, within thirty days after receiving Espinoza's interrogatory response stating that she had lived at her San Francisco address since 1976. The district court denied Espinoza's motion to remand, concluding that the removal clock was triggered by the interrogatory response rather than the earlier complaint, amended complaint, or prelitigation demand.

DISPOSITION

other

CASES CITED

- Caterpillar Inc. v. Williams, 482 U.S. 386, 392 (1987)
- Caterpillar Inc. v. Lewis, 519 U.S. 61, 68 (1996)
- Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994)
- Ethridge v. Harbor House Rest., 861 F.2d 1389, 1393 (9th Cir. 1988)
- Harris v. Bankers Life & Cas. Co., 425 F.3d 689, 694 (9th Cir. 2005)
- Roth v. CHA Hollywood Med. Ctr., L.P., 720 F.3d 1121, 1125-26 (9th Cir. 2013)
- Barakat v. Costco Wholesale Corp., No. 20-cv-02248-JCS, 2020 WL 3635933, at *4 (N.D. Cal. July 6, 2020)
- Bosky v. Kroger Texas, LP, 288 F.3d 208, 211 (5th Cir. 2002)
- Nguyen v. Sam's W., Inc., No. 2:15-CV-00649-JAD, 2015 WL 5092689, at *3 (D. Nev. Aug. 27, 2015)
- Carvalho v. Equifax Info. Servs., LLC, 629 F.3d 876, 886 (9th Cir. 2010)
- Svoboda v. Deutsche Bank Secs., Inc., No. C-10-01788-JCS, 2010 WL [locator incomplete in source]
- Dietrich v. Boeing Co., 14 F.4th 1089, 1095 (9th Cir. 2021)
- Estrada v. Nissan N. Am., Inc., No. 25-cv-00783-SK, 2025 WL 842173, at *3 (N.D. Cal. Mar. 18, 2025)
- Kantor v. Wellesley Galleries, Ltd., 704 F.2d 1088, 1090 (9th Cir. 1983)
- Kanter v. Warner-Lambert Co., 265 F.3d 853, 857-58 (9th Cir. 2001)
- Grupo Dataflux v. Atlas Glob. Grp., 541 U.S. 567, 570-71 (2004)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 NORTHERN DISTRICT OF
CALIFORNIA 10 San Francisco Division 11 SHARON ESPINOZA, Case No. 25-cv-05634-LB
12 Plaintiff, ORDER DENYING MOTION TO 13 v. REMAND 14 TARGET CORPORATION,
Re: ECF No. 5 15 Defendant. 16 17 INTRODUCTION AND STATEMENT 18 Plaintiff Sharon
Espinoza sued Target Corporation in state court on October 15, 2024, for 19 negligence and
premises liability after she slipped and was injured at a Target store on January 13, 20 2023, in San
Francisco.

The complaint did not specify her residence, but her amended complaint 21 (filed on March 24,
2025) alleged in the present tense that she resided in San Francisco.1 On April 22 9, 2025, Target
served written discovery asking for the plaintiff's address, including her residence 23 history for
five years.

On June 17, 2025, the plaintiff responded that she had been living at her 24 address in San
Francisco since 1976.2 Target removed the case to this court on July 3, 2025, 25 26 1 Compl., Ex.
A to Notice of Removal – ECF No. 1 at 8–12 (no allegations of residence); First Am. Compl.

(FAC), Ex. A to id. – ECF No. 1 at 14 (¶ 4) (plaintiff resides in San Francisco), 15 (¶ 13) 27 (accident).

Citations refer to material in the Electronic Case File (ECF); pinpoint citations are to the ECF-generated page numbers at the top of documents. 1 within thirty days of the interrogatory response but more than thirty days after the complaint was 2 filed. 28 U.S.C. § 1446(b)(1).

The plaintiff disputes the timeliness of removal: (1) she sent a 3 prelitigation demand on June 24, 2024, to Target’s insurer, attaching medical bills and records 4 with her San Francisco address, and (2) her amended complaint specified that she lived in San 5 Francisco. She asks for remand and her fees.³ Target responded that it had notice that the action 6 was removable only after the plaintiff responded to the interrogatory.⁴ The court denies the motion 7 to remand.

As explained below, the case was not removable until Target became aware of the 8 plaintiff’s domicile via her interrogatory response, making removal timely.⁵ 9 10 ANALYSIS 11 A defendant may remove a case to federal court if the plaintiff could have filed the case here, 12 meaning, the court has federal-question or diversity jurisdiction. 28 U.S.C. § 1441(a); *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987).

For diversity jurisdiction, the amount in controversy 14 must exceed \$75,000, exclusive of interest and costs, and there must be complete diversity of 15 citizenship between opposing parties. 28 U.S.C. § 1332(a)(1); *Caterpillar Inc. v. Lewis*, 519 U.S. 16 61, 68 (1996).⁶ Because district courts are courts of limited jurisdiction, courts construe the 17 removal statute strictly and reject federal jurisdiction if there is any doubt as to the right of 18 removal.

Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994). The removing 19 party has the burden of establishing the court’s jurisdiction. *Ethridge v. Harbor House Rest.*, 861 20 F.2d 1389, 1393 (9th Cir. 1988). 21 22 23 3 Mot. – ECF No. 5-1 at 4–7; Brophy Decl. – ECF No. 5-2 at 2 (¶ 3); Letter, Ex. A to Brophy Decl. – ECF No. 5-2 at 5; Med. R. – ECF No. 5-2 at 12–225.

24 4 Notice of Removal – ECF No. 1 at 2 (¶ 3); Opp’n – ECF No. 9 at 4–5. It also contends that, in any event, it had reason to doubt the plaintiff’s residency because she was rushing to catch an airplane at 25 the time of her fall. Blackburn Decl. – ECF No. 9-1 at 2–3 (¶ 7).

The plaintiff contends that she intended to bring lunch to her grandson, who worked at the airport. Espinoza Decl. – ECF No. 11-1 at 26 1 (¶ 4). 27 5 All parties have consented to magistrate-judge jurisdiction pursuant to 28 U.S.C. § 636(c)(1). Consents – ECF Nos. 7, 10. 1 28 U.S.C. § 1446(b) establishes two thirty-day periods for removal.

The first applies when a 2 pleading is removable on its face. 28 U.S.C. § 1446(b)(1). The second applies when “the case stated 3 by the initial pleading is not removable,” and the defendant receives notice “through service or 4 otherwise, of a copy of an amended pleading, motion, order

or other paper from which it may first be ascertained that the case is one which is or has become removable.” 28 U.S.C. § 1446(b)(3); see 6 *Harris v. Bankers Life & Cas.*

Co., 425 F.3d 689, 694 (9th Cir. 2005) (discussing the two removal periods). These thirty-day periods “operate as limitations on the right of removal rather than as authorizations to remove and only apply to a defendant who is put on notice of removability.” *Roth v. CHA Hollywood Med. Ctr., L.P.*, 720 F.3d 1121, 1125 (9th Cir. 2013). Sections 1446(b)(1) and (3) are bright-line rules requiring information to be “unequivocally clear and certain” to support removability.

Barakat v. Costco Wholesale Corp., No. 20-cv-02248-12 JCS, 2020 WL 3635933, at *4 (N.D. Cal. July 6, 2020) (quoting *Bosky v. Kroger Texas, LP*, 288 F.3d 208, 211 (5th Cir. 2002)) (citing *Nguyen v. Sam’s W., Inc.*, No. 2:15-CV-00649-JAD, 2015 WL 5092689, at *3 (D. Nev. Aug. 27, 2015)); see also *Dietrich v. Boeing Co.*, 14 F.4th 1089, 1095 (9th Cir. 2021) (adopting the “unequivocally clear and certain” standard for triggering the thirty-day clock under § 1446(b)(3)).

Courts in the Ninth Circuit have repeatedly held that defendants are not charged with inquiry notice if either the initial pleading or other document is “indeterminate with respect to removability.” *Barakat*, 2020 WL 3635933, at *4 (cleaned up) (collecting cases). This objective analysis of the pleadings promotes certainty, avoids gamesmanship, and minimizes collateral litigation over whether the pleadings contained a sufficient clue, the defendant’s subjective knowledge, or the sufficiency of the defendant’s inquiry.

Harris, 425 F.3d at 697–98. The initial complaint did not specify the plaintiff’s residence and thus did not start the first thirty-day clock. 28 U.S.C. § 1446(b)(2); *Harris*, 425 F.3d at 694–95. The prelitigation demand, sent on June 24, 2024, before the complaint was filed, does not qualify as “other paper” that starts the second thirty-day clock running because the plain language of § 1446(b)(3) limits “other paper” to documents filed after the initial pleading.

Carvalho v. Equifax Info. Servs., LLC, 629 F.3d 876, 886 (9th Cir. 2010); *Svoboda v. Deutsche Bank Secs., Inc.*, No. C-10-01788-JCS, 2010 WL 164 (5th Cir. 1992), approved in *Harris*, 425 F.3d at 695 n.5) (holding that a pre-suit settlement letter specifying damages in excess of \$75,000 was not “other paper”). That leaves the amended complaint, filed on March 24, 2025, which alleges that the plaintiff resides in San Francisco but does not specify that she did so at the time she filed the lawsuit in 2024.

If the amended complaint gave clear notice of removability, then removal is untimely. It did not provide unequivocally clear notice. Some courts have held that an allegation of residency in a complaint is sufficient notice. *Estrada v. Nissan N. Am., Inc.*, No. 25-cv-00783-SK, 2025 WL 842173, at *3 (N.D. Cal. Mar. 18, 2025) (collecting cases). *Estrada* was a lemon-law case

involving vehicle defects, where the 10 complaint alleged that the plaintiff resided in California, and the defendant was a citizen of 11 Delaware and Tennessee.

The court held that removal jurisdiction was apparent on the face of the 12 complaint and rejected Nissan's argument that it was required to obtain evidence of residency 13 before removing the case, remanding because removal occurred more than thirty days after the 14 complaint was filed. Id. 15 Estrada is distinguishable: there, the complaint alleged residency contemporaneous with the 16 vehicle's purchase and defects in California, making domicile more apparent at the time of filing.

17 Here, the amended complaint alleges residency in the present tense (in March 2025), after the filing 18 of the initial complaint (in October 2024) or the accident (in January 2023). Residency alone does 19 not establish citizenship or domicile for diversity purposes. *Kantor v. Wellesley Galleries, Ltd.*, 704 20 F.2d 1088, 1090 (9th Cir. 1983); *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857–58 (9th Cir.

21 2001) (an allegation of residency is insufficient to establish citizenship). The court looks to a party's 22 domicile at the time the lawsuit was filed. *Grupo Dataflux v. Atlas Glob. Grp.*, 541 U.S. 567, 570– 23 71 (2004). Similarly, in *Harris*, the complaint alleged the defendant's residence on a former date, 24 not his citizenship or domicile at the time the action was filed.

425 F.3d at 695–96. 25 The amended complaint thus did not provide a clear ground for removal to start the thirty-day 26 clock. Within roughly two weeks after the plaintiff filed her amended complaint, the defendant 27 served an interrogatory to determine where the plaintiff resided at the time the lawsuit was filed.] written discovery, such as interrogatories and requests for information, are "other paper" for 2 || purposes of § 1446(b)(3)).

It removed the case within thirty days after learning that she had lived 3 in San Francisco since 1976. Removal was timely. This conclusion is consistent with *Harris*'s 4 || goal of guarding against premature and protective removals and minimizing the potential for a 5 cottage industry of removal litigation. 425 F.3d at 697-98; see also *Roth*, 720 F.3d at 1126 6 || (emphasizing avoidance of premature removals).

Also, removal must be effected in diversity cases 7 || within one year after commencement of the action. 28 U.S.C. § 1446(c). This one-year bar 8 || provides defendants sufficient incentive and time to justify removal without imposing an undue 9 || burden to investigate removability within the first thirty days of receiving an indeterminate 10 || complaint.

Harris, 425 F.3d at 697. 11 CONCLUSION 12 The court denies the motion to remand. This resolves ECF No. 5. 13 IT IS SO ORDERED. 14 Dated: August 21, 2025 Lit EC 15 LAUREL BEELER A 16 United States Magistrate Judge Z 18 19 20 21 22 23 24 25 26 27 28

