

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF  
CALIFORNIA

James Connor v. O Positive, LLC

No. 2:24-cv-07449 MWC (PDx) (C.D. Cal. Mar. 7, 2025) · No. 2:24-cv-07449 MWC (PDx) · Decided March 7, 2025

SUMMARY

The United States District Court for the Central District of California denied Plaintiff James Connor’s motion to remand a putative class action against O Positive, LLC. The court held that Defendant established by a preponderance of the evidence that the amount in controversy exceeded the Class Action Fairness Act threshold, relying principally on a reduced 20% violation-rate calculation for waiting-time penalties.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                        |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Central District of California                                                                                                                                                                                                                                                                    |
| WRITING FOR THE COURT | Michelle Williams Court                                                                                                                                                                                                                                                                                                                |
| JURISDICTION          | United States District Court for the Central District of California                                                                                                                                                                                                                                                                    |
| DECIDED               | March 7, 2025                                                                                                                                                                                                                                                                                                                          |
| DOCKET                | 2:24-cv-07449 MWC (PDx)                                                                                                                                                                                                                                                                                                                |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                                                  |
| PROCEDURAL POSTURE    | Plaintiff moved to remand a putative class action removed from California state court under the Class Action Fairness Act. The district court denied the motion.                                                                                                                                                                       |
| STANDARD OF REVIEW    | The removing defendant bears the burden of establishing federal jurisdiction. When the amount in controversy is contested, the court determines by a preponderance of the evidence whether the jurisdictional threshold is satisfied, considering evidence outside the complaint and reasonable assumptions grounded in the pleadings. |
| PRECEDENTIAL VALUE    | unpublished district-court order; persuasive only                                                                                                                                                                                                                                                                                      |
| PARTIES               | James Connor v. O Positive, LLC                                                                                                                                                                                                                                                                                                        |

TOPICS

- class actions
- subject matter jurisdiction
- civil procedure
- evidence
- authentication

## PRACTICE AREAS

civil procedure

employment law

class actions

removal jurisdiction

## QUESTIONS PRESENTED

1. Whether O Positive established by a preponderance of the evidence that the amount in controversy exceeded \$5 million for purposes of CAFA jurisdiction.
2. Whether O Positive's declarations based on payroll records provided sufficient foundation and admissible evidence to support its amount-in-controversy calculations.
3. Whether O Positive's assumptions concerning the number of separated employees, hourly rates, work hours, and violation rate were reasonable for calculating waiting-time penalties.

## HOLDINGS

1. A removing defendant may establish the amount in controversy with declarations based on business and payroll records when the declarations explain the declarant's personal knowledge, identify the records reviewed, describe the review, and provide a methodology for the calculations.
2. The amount in controversy exceeded \$5 million because a reasonable calculation of waiting-time penalties, based on a 20 percent violation rate and the number of separated employees, totaled \$9,388,800.
3. The court need not determine the amount attributable to the remaining claims when the waiting-time-penalties claim alone exceeds the CAFA amount-in-controversy threshold.

## KEY QUOTATIONS

*“Federal courts are courts of limited jurisdiction, possessing only that power authorized by Constitution and statute.” (Section II.A)*

*“A defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold, unless the defendant’s assertion is contested by the plaintiff.” (Section II.B)*

*“However, the Court agrees with Plaintiff that a reduced violation rate is warranted based on Plaintiff’s evidence that “Defendant in fact does pay some meal break penalties” and thus does not necessarily owe waiting time penalties to each of the 3,912 separated employees” (Section III.B)*

## FACTUAL BACKGROUND

Connor brought a putative class action alleging California wage-and-hour violations, including unpaid wages, missed meal and rest breaks, and waiting-time penalties. O Positive submitted declarations based on payroll records stating that 3,912 California nonexempt employees had been hired on a project-by-project basis and that the median hourly rate exceeded \$40, with a median workday of 10 hours. Using those figures and a 20 percent violation rate, the court calculated potential waiting-time penalties of \$9,388,800, exceeding CAFA's \$5 million threshold.

## PROCEDURAL HISTORY

Connor filed a putative class action in the Superior Court of California, County of Los Angeles, on July 8, 2024. O Positive removed the action to the Central District of California on August 30, 2024, invoking CAFA and, in the notice of removal, ordinary diversity jurisdiction. Connor moved to remand for failure to establish the amount in controversy. The court considered the CAFA basis for removal and denied remand after finding that the waiting-time-penalties claim alone placed more than \$5 million in controversy.

## DISPOSITION

other

## CASES CITED

- *Gunn v. Minton*, 568 U.S. 251, 256 (2013)
- *City of Chicago v. International College of Surgeons*, 522 U.S. 156, 163 (1997)
- *International Primate Protection League v. Administrators of Tulane Educational Fund*, 500 U.S. 72, 87 (1991)
- *Ibarra v. Manheim Investments, Inc.*, 775 F.3d 1193, 1197-1200 (9th Cir. 2015)
- *Dart Cherokee Basin Operating Co. v. Owens*, 574 U.S. 81-83, 89 (2014)
- *Abrego Abrego v. Dow Chemical Co.*, 443 F.3d 676, 685 (9th Cir. 2006)
- *Jauregui v. Roadrunner Transportation Services, Inc.*, 28 F.4th 989, 993-94 (9th Cir. 2022)
- *Arias v. Residence Inn by Marriott*, 936 F.3d 920, 922, 925, 927 (9th Cir. 2019)
- *Garcia v. William Scotsman, Inc.*, No. CV 24-02977, 2024 WL 4289895, at \*3, \*7 (C.D. Cal. Sept. 25, 2024)
- *Elizarraz v. United Rentals, Inc.*, No. 2:18-CV-09533 ODW (JC), 2019 WL 1553664, at \*2 (C.D. Cal. Apr. 9, 2019)
- *Alvarez v. Office Depot, Inc.*, No. CV 17-7220 PSG (AFMx), 2017 WL 5952181, at \*2 (C.D. Cal. Nov. 30, 2017)
- *Al-Najjar v. Kindred Healthcare Operating, Inc.*, No. CV 17-6166 PSG (FFMx), 2017 WL 4862067, at \*2-\*4 (C.D. Cal. Oct. 26, 2017)
- *Hurt v. SH Group Hotels and Residence U.S. LLC*, No. 2:24-cv-08840 MWC (ASx), 2024 WL 5244725, at \*3 (C.D. Cal. Dec. 30, 2024)
- *Gonzalez v. Barnard Construction Co., Inc.*, No. 22-cv-00534-AJB-KSC, 2022 WL 17061065, at \*3 (S.D. Cal. Nov. 17, 2022)
- *Garcia v. William Scotsman, Inc.*, 2024 WL 428995, at \*10 (C.D. Cal.)