

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Rebecca Castillo v. Tommy Bahama R&R Holdings, Inc. et al.

Castillo v. Tommy Bahama · No. 2:25-cv-02696-ODW (RAOx) · Decided July 9, 2025

SUMMARY

The United States District Court for the Central District of California grants Rebecca Castillo’s motion to remand an action against Tommy Bahama R&R Holdings, Inc. concerning alleged website accessibility barriers. The court holds that Castillo’s amended Unruh Civil Rights Act claim includes an independent state-law theory and therefore does not necessarily present a federal question, and that the defendant failed to establish the amount-in-controversy requirement for diversity jurisdiction. The court remands the action to Los Angeles County Superior Court and denies Castillo’s request for removal-related attorneys’ fees.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Otis D. Wright, II
JURISDICTION	United States District Court for the Central District of California
DECIDED	July 9, 2025
DOCKET	2:25-cv-02696-ODW (RAOx)
DISPOSITION	remanded
PROCEDURAL POSTURE	Defendant removed plaintiff’s California state-court action to federal court based on asserted federal-question and diversity jurisdiction. Plaintiff amended the complaint to withdraw her ADA claim and moved to remand; the district court granted remand and denied her request for removal-related attorney fees.
STANDARD OF REVIEW	The removing party bears the burden of establishing federal subject-matter jurisdiction. Removal statutes are strictly construed against removal, and doubts are resolved in favor of remand. The amount in controversy must be established by a preponderance of the evidence.
PRECEDENTIAL VALUE	unpublished district court opinion; persuasive only

TOPICS

subject matter jurisdiction

civil procedure

ada / disability

injunctions

attorney fees

PRACTICE AREAS

civil procedure

federal jurisdiction

removal and remand

disability access litigation

QUESTIONS PRESENTED

1. Whether the First Amended Complaint's Unruh Civil Rights Act claim presented a federal question because it referenced or was partly premised on ADA violations.
2. Whether Tommy Bahama established diversity jurisdiction by proving that the amount in controversy exceeded \$75,000, including statutory damages, injunctive relief, and attorney fees.
3. Whether Castillo was entitled to attorney fees incurred because of the removal under 28 U.S.C. § 1447(c).

HOLDINGS

1. Federal-question jurisdiction did not attach because Castillo plausibly pleaded an alternative, independent state-law theory of liability under the Unruh Civil Rights Act based on intentional discrimination; therefore, federal law was not a necessary element of the claim.
2. Tommy Bahama failed to prove by a preponderance of the evidence that the amount in controversy exceeded \$75,000. The court calculated \$12,000 in statutory damages, credited Castillo's \$50,000 limitation on injunctive-relief costs, and included \$1,500 in attorney fees, for a total of \$63,500.
3. Castillo was not entitled to attorney fees under 28 U.S.C. § 1447(c) because Tommy Bahama had an objectively reasonable basis for removal in light of ambiguity concerning federal jurisdiction over Unruh claims seeking injunctive relief.

KEY QUOTATIONS

“When a claim can be supported by alternative and independent theories—one of which is a state law theory and one of which is a federal law theory—federal question jurisdiction does not attach because federal law is not a necessary element of the claim.” (at 5)

“Given that \$12,000 in statutory damages, \$50,000 of injunctive relief, and \$1,500 in reasonable attorneys’ fees amounts to \$63,500, and does not exceed the \$75,000 jurisdictional minimum, Tommy Bahama fails to meet its burden to prove diversity jurisdiction exists here.” (at 9)

“Absent unusual circumstances, courts may award attorney’s fees under § 1447(c) only where the removing party lacked an objectively reasonable basis for seeking removal.” (at 10)

FACTUAL BACKGROUND

Rebecca Castillo, a legally blind person who uses screen-reading software, encountered multiple accessibility barriers while attempting to use Tommy Bahama's retail website. Her original state-court complaint asserted ADA and Unruh Civil Rights Act claims seeking damages and injunctive relief. After removal, she filed a First

Amended Complaint withdrawing the ADA claim and proceeding only under the Unruh Act, while alleging that Tommy Bahama knowingly maintained an inaccessible website and failed to correct the barriers.

PROCEDURAL HISTORY

Castillo filed suit in Los Angeles County Superior Court alleging website accessibility barriers and asserting ADA and Unruh Civil Rights Act claims. Tommy Bahama removed the action, asserting federal-question and diversity jurisdiction. Castillo filed a First Amended Complaint asserting only an Unruh claim, then moved to remand. The district court held that neither federal-question nor diversity jurisdiction was established, granted the motion, denied attorney fees under 28 U.S.C. § 1447(c), and remanded the action to state court.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The action was remanded to the Superior Court of the State of California, County of Los Angeles, West Covina Courthouse, 1427 West Covina Parkway, West Covina, California 91790, Case No. 25PSCV00624. Castillo's request for \$1,500 in attorney fees associated with removal was denied.

CASES CITED

- Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994)
- Easton v. Crossland Mortg. Corp., 114 F.3d 979, 982 (9th Cir. 1997)
- Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992)
- Migliori v. Boeing N. Am., Inc., 97 F. Supp. 2d 1001, 1003 n.1 (C.D. Cal. 2000)
- Hunter v. Philip Morris USA, 582 F.3d 1039, 1042 (9th Cir. 2009)
- Rains v. Criterion Sys. Inc., 80 F.3d 339, 343, 346 (9th Cir. 1996)
- Merrell Dow Pharms. Inc. v. Thompson, 478 U.S. 804, 813 (1986)
- Wander v. Kaus, 304 F.3d 856, 859 (9th Cir. 2002)
- Thurston v. Container Store, Inc., 2017 WL 658806, at *2-*3 (C.D. Cal. Feb. 16, 2017)
- Martinez v. Adidas Am., Inc., 2019 WL 3002864, at *4-*6 (C.D. Cal. July 9, 2019)
- Pickern v. Best W. Timber Cove Lodge Marina Resort, 194 F. Supp. 2d 1128, 1132 n.5 (E.D. Cal. 2002)
- Greater L.A. Agency on Deafness, Inc. v. Cable News Network, Inc., 742 F.3d 414, 425 (9th Cir. 2014)
- Munson v. Del Taco, Inc., 46 Cal. 4th 661, 668 (2009)
- Nat'l Fed'n of the Blind v. Target Corp., 582 F. Supp. 2d 1185, 1206 (N.D. Cal. 2007)
- Chavez v. JPMorgan Chase & Co., 888 F.3d 413, 414-15 (9th Cir. 2018)
- Fritsch v. Swift Transportation Co., 899 F.3d 785, 793-94 (9th Cir. 2018)
- Crum v. Circus Circus Enters., 231 F.3d 1129, 1131 (9th Cir. 2000)
- Standard Fire Ins. Co. v. Knowles, 568 U.S. 588, 595 (2013)
- St. Paul Mercury Indem. Co. v. Red Cab Co., 303 U.S. 283, 294 (1938)

- In re Ford Motor Co./Citibank (S.D.), N.A., 264 F.3d 952, 958 (9th Cir. 2001)
- Sanchez v. Monumental Life Ins. Co., 102 F.3d 398, 404 (9th Cir. 1996)
- Matheson v. Progressive Specialty Ins. Co., 319 F.3d 1089, 1090-91 (9th Cir. 2003)
- Martinez v. Johnson & Johnson Consumer, Inc., 471 F. Supp. 3d 1003, 1009 (C.D. Cal. 2020)
- Baracco v. Brooks Brothers Group, Inc., 2019 WL 276840, at *3-*4 (C.D. Cal. Jan. 22, 2019)
- Gil v. Winn-Dixie Stores, Inc., 257 F. Supp. 3d 1340, 1345 (S.D. Fla. 2017)
- Ramirez v. Volkswagen Grp. of Am., Inc., 2022 WL 2610247, at *5 (C.D. Cal. July 8, 2022)
- Walton v. AT&T Mobility, 2011 WL 2784290, at *2 (C.D. Cal. July 14, 2011)
- Engel v. Worthington, 60 Cal. App. 4th 628, 635-36 (1997)
- Antoninetti v. Chipotle Mexican Grill, Inc., 49 F. Supp. 3d 710, 726 (S.D. Cal. 2014)
- Hubbard v. Twin Oaks Health & Rehabilitation Center, 406 F. Supp. 2d 1096, 1100-01 (E.D. Cal. 2005)
- Martin v. Franklin Capital Corp., 546 U.S. 132, 141 (2005)
- Rutherford v. La Jolla Riviera Apartment House LLC, 2019 WL 6125255, at *6 (S.D. Cal. Nov. 19, 2019)
- Rosales v. Re/Max LLC, 2020 WL 7480121, at *2 (C.D. Cal. Dec. 18, 2020)
- Martinez v. Greatcollections.com, LLC, 2019 WL 4742299, at *1-*2 (C.D. Cal. Sept. 27, 2019)
- Rios v. New York and Co., 2017 WL 3575220, at *2 (C.D. Cal. Aug. 2017)

OPINION

O 1 JS-6 2 3 4 5 6 7 United States District Court 8 Central District of California 9 10 11 REBECCA CASTILLO, Case No. 2:25-cv-02696-ODW (RAOx) 12 Plaintiff, 13 v. ORDER GRANTING MOTION TO 14 TOMMY BAHAMA R&R HOLDINGS, REMAND [9] 15 INC. et al., 16 Defendants. 17 I. INTRODUCTION 18 Plaintiff Rebecca Castillo initiated this action in the Superior Court of 19 California against Defendant Tommy Bahama R&R Holdings, Inc. (“Tommy 20 Bahama”) regarding visual disability access barriers on Tommy Bahama’s retail 21 website.

(Notice Removal (“NOR”) Ex. A (“Compl.”), ECF Nos. 1, 1-1.) Tommy 22 Bahama removed the case based on alleged federal question and diversity jurisdiction. 23 (NOR.) Castillo now moves to remand. (Mot. Remand (“Mot.” or “Motion”), ECF 24 No. 9.)

For the reasons discussed below, the Court GRANTS Castillo’s Motion to 25 Remand and REMANDS this action to Los Angeles County Superior Court.1 26 27 28 1 After carefully considering the papers filed in support of and in opposition to the Motion, the Court deemed the matter appropriate for decision without oral argument. Fed. R. Civ. P. 78; L.R. 7-15. 1 II.

BACKGROUND 2 Castillo is a legally blind person who uses screen reading software (“SRS”) to 3 access the internet. (First Am. Compl. (“FAC”) ¶ 1, ECF No. 8.) While attempting to 4 use Tommy Bahama’s website to avail herself of its goods and services, Castillo 5 encountered multiple digital access barriers that prevented her from using the website 6 with SRS.

(Id. ¶¶ 9, 11.) Castillo filed this action in Los Angeles County Superior 7 Court against Tommy Bahama, seeking damages and injunctive relief under two 8 causes of action: (1) violations of the Americans with Disabilities Act (“ADA”), and 9 (2) violations of the Unruh Civil Rights Act (“Unruh”). (Compl. ¶¶ 63–76.) 10 Tommy Bahama removed the action based on alleged federal question and 11 diversity jurisdiction.

(NOR ¶¶ 3–20.) Castillo amended her claims with the 12 operative First Amended Complaint, withdrawing her ADA claim and pleading only 13 the state law Unruh cause of action for damages and injunctive relief. (See generally 14 FAC.) She now moves to remand this action on the grounds that (1) her claim no 15 longer involves a federal question, and (2) the amount in controversy does not exceed 16 the \$75,000 jurisdictional minimum so the Court does not have diversity jurisdiction.

17 (Mot. 1.)² 18 III. LEGAL STANDARD 19 Federal courts are courts of limited jurisdiction, having subject-matter 20 jurisdiction only over matters authorized by the Constitution and Congress. 21 U.S. Const. art. III, § 2, cl. 1; e.g., *Kokkonen v. Guardian Life Ins. Co. of Am.*, 22 511 U.S. 375, 377 (1994). A suit filed in state court may be removed to federal court 23 if the federal court would have had original jurisdiction over the suit.

28 U.S.C. 24 § 1441(a). 25 26 2In opposing the Motion, Tommy Bahama asks the Court to take judicial notice of certain documents. (See Req. Judicial Notice ISO Opp’n, ECF No. 11-1.) As the Court reaches its 27 conclusions without relying on those documents, it denies those requests. See *Migliori v. Boeing N. 28 Am., Inc.*, 97 F. Supp. 2d 1001, 1003 n.1 (C.D. Cal. 2000) (declining to take judicial notice of exhibits that “do not affect the outcome of” the motion).

1 Federal courts have original jurisdiction where an action presents a federal 2 question under 28 U.S.C. § 1331, or diversity of citizenship under 28 U.S.C. § 1332. 3 A defendant may remove a case from a state court to a federal court pursuant to the 4 federal removal statute, 28 U.S.C. § 1441, on the basis of federal question or diversity 5 jurisdiction. An action presents federal question jurisdiction when “federal law 6 creates the cause of action or [] the plaintiff’s right to relief necessarily depends on a 7 resolution of a substantial question of federal law.” *Easton v. Crossland Mortg.*

8 Corp., 114 F.3d 979, 982 (9th Cir. 1997). A federal court may exercise diversity 9 jurisdiction when the adverse parties are completely diverse in citizenship and the 10 amount in controversy exceeds \$75,000, usually exclusive of interest and costs. 11 28 U.S.C. § 1332(a). 12 Courts strictly construe the removal statute against removal jurisdiction, and 13 “[f]ederal jurisdiction must be rejected if there is any doubt as to the right of removal 14 in the first instance.” *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir.

1992). The 15 party seeking removal bears the burden of establishing jurisdiction. *Id.* 16 IV. DISCUSSION 17 Tommy Bahama removed this case based on alleged federal question and 18 diversity jurisdiction. (See generally *NOR.*) Castillo moves to remand, arguing that 19 neither supports subject matter jurisdiction here. (See generally *Mot.*)

First, Castillo 20 argues there is no federal question jurisdiction because she amended her complaint 21 and no longer pleads an ADA claim. (*Mot.* 1–3.) Second, she contends there is no 22 diversity jurisdiction because Tommy Bahama has not shown the amount in 23 controversy exceeds \$75,000. (*Mot.* 3–9.) Castillo separately requests \$1,500 in 24 attorneys’ fees associated with removal on the grounds that Tommy Bahama’s 25 removal was objectively unreasonable.

(*Mot.* 10.) 26 A. Federal Question Jurisdiction 27 Tommy Bahama contends that the Court has federal jurisdiction despite the lack 28 of an express federal cause of action because Castillo’s state law claim incorporates 1 violations of the ADA, a federal statute. (*Opp’n* 9–14, *ECF No.* 11.) Castillo argues 2 that federal law is not a necessary element of her Unruh claim because she pleads an 3 alternative state law theory of liability, thereby avoiding federal jurisdiction.

(*Mot.* 1– 4 3; *Reply* 1–2, *ECF No.* 13.) 5 “[T]he plaintiff is the master of his complaint and may avoid federal 6 jurisdiction by relying exclusively on state law.” *Hunter v. Philip Morris USA*, 7 582 F.3d 1039, 1042 (9th Cir. 2009) (internal quotation marks omitted). Generally, a 8 state law claim gives rise to a federal question only when the state law claim 9 “necessarily turn[s] on the construction of a substantial, disputed federal question.” 10 *Rains v. Criterion Sys.*

Inc., 80 F.3d 339, 343 (9th Cir. 1996). 11 Although a violation of the ADA is a per se violation of the Unruh Act, Cal. 12 Civ. Code § 51(f), the “mere presence of a federal issue in a state cause of action does 13 not automatically confer federal-question jurisdiction,” *Merrell Dow Pharms. Inc. v. 14 Thompson*, 478 U.S. 804, 813 (1986).

In *Wander v. Kaus*, the Ninth Circuit held that 15 no federal question jurisdiction exists over an Unruh claim for damages when 16 premised only on the ADA, because damages are not an available remedy under the 17 ADA. 304 F.3d 856, 859 (9th Cir. 2002).

However, the Ninth Circuit has not 18 addressed whether federal question jurisdiction exists where a plaintiff seeks 19 injunctive relief for a state law claim based on ADA violations. See *Thurston v. 20 Container Store, Inc.*, No. 5:16-cv-02658-SVW (DTBx), 2017 WL 658806, at *2 21 (C.D. Cal. Feb. 16, 2017) (observing that it is an open question in the Ninth Circuit 22 whether a federal court has jurisdiction over an Unruh claim for injunctive and 23 monetary relief).

In the absence of binding authority on this issue, courts within this 24 District have found that a state law claim for injunctive relief, when premised only on 25 an ADA violation, may confer federal question jurisdiction. See, e.g., *id.* at *2–3; 26 *Martinez v. Adidas Am., Inc.*, No. 5:19-cv-

00841-JGB (KKx), 2019 WL 3002864, 27 at *4–5 (C.D. Cal. July 9, 2019); *Pickern v. Best W. Timber Cove Lodge Marina 28 Resort*, 194 F. Supp. 2d 1128, 1132 n.5 (E.D.

Cal. 2002) (“[I]t is possible for a state law claim for injunctive relief to be premised solely on a violation of the ADA. Such a claim would be no different from a federal ADA claim. Federal question jurisdiction must exist in those circumstances.”). Conversely, “[w]hen a claim can be supported by alternative and independent theories—one of which is a state law theory and one of which is a federal law theory—federal question jurisdiction does not attach because federal law is not a necessary element of the claim.” *Rains*, 80 F.3d at 346.

“[T]o establish a violation of the Unruh Act independent of a claim under the [ADA, a plaintiff] must ‘plead and prove intentional discrimination in public accommodations in violation of the terms of the Act.’” *Greater L.A. Agency on Deafness, Inc. v. Cable News Network, Inc.*, 742 F.3d 414, 425 (9th Cir. 2014) (quoting *Munson v. Del Taco, Inc.*, 46 Cal.4th 661, 668 (2009)).

For example, in *Martinez v. Adidas America*, the court found that the plaintiff plausibly pleaded intentional discrimination by showing that the defendant (1) constructed an inaccessible website; (2) knowingly maintained that inaccessible website; and (3) failed to correct the access barriers despite receiving notice. 2019 WL 3002864, 16 at *4; see also *Nat’l Fed’n of the Blind v. Target Corp.*, 582 F. Supp. 2d 1185, 1206 17 (N.D.

Cal. 2007) (holding that allegations of “Target’s knowing failure and refusal to adopt certain accessibility features in Target.com” demonstrated the requisite intent). Here, Tommy Bahama argues that Castillo’s claim does not plausibly plead intentional discrimination and is therefore premised only on violations of federal law (thereby creating federal question jurisdiction).

(Opp’n 15–16.) However, upon review of the First Amended Complaint, Castillo plausibly pleads intentional discrimination. As in *Martinez v. Adidas America* and *National Federation of the Blind*, Castillo alleges that “Defendant has constructed a website that is inaccessible to Plaintiff; Defendant maintains the Website in this inaccessible format; and Defendant has failed to take action to correct and remove these barriers.” (FAC ¶ 65.)

Given that Castillo has adequately alleged an alternative state law theory of liability for her Unruh claim, the federal law theory is not a “necessary element” of her claim and federal question jurisdiction does not attach. See *Martinez v. Adidas Am., Inc.*, 2019 WL 3002864, at *4, 6 (remanding for lack of federal question jurisdiction because federal law was not a necessary element of the plaintiff’s Unruh claim).

B. Diversity Jurisdiction Tommy Bahama also contends the Court has diversity jurisdiction. (NOR ¶¶ 9, 6 20; Opp’n 3–9.) To establish diversity jurisdiction, the Court must find that complete

7 diversity of citizenship exists between the adverse parties and the amount in 8 controversy exceeds \$75,000. 28 U.S.C. § 1332(a).

The parties agree that complete 9 diversity of citizenship exists between them, as Castillo is a citizen of California and 10 Tommy Bahama is a citizen of Delaware, with its principal place of business in 11 Georgia. (FAC ¶¶ 9, 11; NOR ¶¶ 5–7.) They disagree about whether the amount in 12 controversy (including statutory damages, injunctive relief, and attorneys’ fees) 13 exceeds \$75,000.

The amount in controversy is determined by the complaint 14 operative at the time of removal, so Castillo’s original Complaint controls the court’s 15 evaluation of diversity jurisdiction. *Chavez v. JPMorgan Chase & Co.*, 888 F.3d 413, 16 414–15 (9th Cir. 2018).

In addition to the Complaint, courts “consider allegations in 17 the removal petition, as well as summary-judgment-type evidence relevant to the 18 amount in controversy at the time of removal.” *Fritsch v. Swift Transport. Co.*, 19 899 F.3d 785, 793 (9th Cir. 2018) (internal quotation marks omitted). 20 In the Complaint, Castillo expressly limits her Unruh damages claim to “not 21 less than \$4,000” for each of two statutory violations, totaling no more than 22 “\$24,999,” and “not less than \$4,000” in deterrence damages; injunctive relief costing 23 “no more than \$50,000”; and reasonable attorneys’ fees and costs.³ (Compl. ¶¶ 55, 24 74–75, Prayer ¶¶ 2–6.)

Tommy Bahama contends that, considering all the damages 25 26 3 Castillo specifies inconsistent amounts of requested damages among her various filings. For instance, in contrast to the sums in the Complaint, in her reply brief Castillo requests \$4,000 in 27 statutory damages and \$4,000 in deterrence damages for each of the two alleged violations, for a 28 total of \$16,000.

(Reply 7.) As the Complaint governs the amount in controversy at the time of removal, that is the filing the Court considers. 1 Castillo puts into controversy, the total amount exceeds the \$75,000 jurisdictional 2 requirement. (Opp’n 3–9; NOR ¶¶ 10–20.) 3 1. Statutory Damages 4 “Generally, the amount in controversy is determined from the face of the 5 pleadings.

The sum claimed by the plaintiff controls so long as the claim is made in 6 good faith.” *Crum v. Circus Circus Enters.*, 231 F.3d 1129, 1131 (9th Cir. 2000) 7 (citation omitted). A plaintiff may sue for less than the jurisdictional amount to avoid 8 federal court, even if she is entitled to more. *Standard Fire Ins. Co. v. Knowles*, 9 568 U.S. 588, 595 (2013); *St. Paul Mercury Indem.*

Co. v. Red Cab Co., 303 U.S. 283, 10 294 (1938). 11 Accordingly, the statutory damages Castillo claims in good faith in her state 12 court complaint must be used to determine the amount in controversy, even if she may 13 be entitled to a greater award. Though Castillo cites \$24,999 as her maximum 14 intended claim, she does not specify the precise total of statutory damages she seeks.

15 (Compl. ¶ 75.) However, she identifies two specific visits to Tommy Bahama’s 16 website that she contends resulted in violations, at \$4,000 per violation. (Compl. ¶ 55, 17 Prayer ¶ 4.) The Court infers from the language of the Complaint that Castillo claims 18 \$8,000 total for those two alleged violations, plus an additional \$4,000 in deterrence 19 damages, for a total of \$12,000 in statutory damages.

(Compl. ¶ 55, Prayer ¶¶ 4–5.) 20 Therefore, the Court finds that Castillo places \$12,000 in statutory damages in 21 controversy. 22 2. Injunctive Relief 23 Castillo requests injunctive relief not exceeding \$50,000, requiring Tommy 24 Bahama to make updates to its website in compliance with federal accessibility 25 guidelines. (Compl., Prayer ¶¶ 2–3.) Tommy Bahama argues vaguely—and without 26 evidence—that the significant cost of compliance with an injunction, when added to 27 the requested statutory damages and attorneys’ fees, would exceed the jurisdictional 28 requirement.

(Opp’n 8–9.) 1 When a defendant removes an action based on diversity jurisdiction, it “bears 2 the burden of establishing, by a preponderance of the evidence, that the amount in 3 controversy exceeds [\$75,000].” *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398, 4 404 (9th Cir. 1996).

Under the “either viewpoint” rule, the amount in controversy is 5 determined by the pecuniary result to either party, including the value of nonmonetary 6 relief like injunctions. In *re Ford Motor Co./Citibank (S.D.), N.A.*, 264 F.3d 952, 958 7 (9th Cir. 2001) (“[W]here the value of a plaintiff’s potential recovery... is below the 8 jurisdictional amount, but the potential cost to the defendant of complying with the 9 injunction exceeds that amount, it is the latter that represents the amount in 10 controversy for jurisdictional purposes.”). “Conclusory allegations as to the amount 11 in controversy are insufficient.” *Matheson v. Progressive Specialty Ins.*

Co., 319 F.3d 12 1089, 1090–91 (9th Cir. 2003). 13 Courts require a defendant to offer substantive proof to undermine a plaintiff’s 14 express estimate of costs. For instance, in *Martinez v. Johnson & Johnson Consumer, 15 Inc.*, the court found that the defendant failed to satisfy its burden to show that the cost 16 of an injunction ordering changes to the website would exceed the \$20,000 limit 17 imposed by the plaintiff in her complaint.

471 F. Supp. 3d 1003, 1009 (C.D. Cal. 18 2020). Because the defendant could show only “generalized estimates” and did not 19 “consult[] with a vendor as to the costs of updating the website,” the court credited the 20 plaintiff’s estimate that the relief would cost no more than \$20,000. *Id.* Similarly, in 21 *Baracco v. Brooks Brothers Group, Inc.*, the court held that “without more substantive 22 evidence of how much it would cost to implement” website changes for visually 23 impaired users, the plaintiff’s \$15,000 limitation on costs was the appropriate 24 estimate.

No. 2:18-cv-9208-PSG (JPRx), 2019 WL 276840, at *3 (C.D. Cal. Jan. 22, 25 2019). 26 Here, Tommy Bahama fails to offer even “generalized estimates” regarding the 27 cost to it from Castillo’s proposed injunction. (See generally Opp’n.)

As in Martinez 28 v. Johnson & Johnson and Baracco, Tommy Bahama has not stated that it consulted 1 with a vendor regarding likely costs or specified what measures it would need to take 2 to comply with the proposed injunction. (See id.) Aside from general and conclusory 3 statements, it cites only one case, out of the Southern District of Florida, in which the 4 defendant estimated that website updates would cost \$250,000.

(Id. at 9 (citing Gil v. 5 Winn-Dixie Stores, Inc., 257 F. Supp. 3d 1340, 1345 (S.D. Fla. June 12, 2017)).) This 6 out-of-circuit case is not persuasive or relevant to the present inquiry, particularly 7 given that the defendant there presented evidence to support its estimates, including 8 “high level input” based on past company experience with accessibility mandates.

9 Gil, 257 F. Supp. 3d at 1345. Although it is true that Castillo does not control the 10 total cost of the injunction, Tommy Bahama has nevertheless failed to show by a 11 preponderance of the evidence that costs would bring the total amount in controversy 12 over the \$75,000 threshold.

Therefore, the Court in this case credits Castillo’s 13 \$50,000 limitation on injunction costs for the amount in controversy. 14 3. Attorneys’ Fees 15 Finally, Castillo seeks reasonable attorneys’ fees and costs. (Compl., Prayer 16 ¶ 6.) Tommy Bahama argues the amount in controversy should include Castillo’s fees 17 and costs but does not specify an amount.

(Opp’n 7.) To exceed the jurisdictional 18 minimum, Tommy Bahama must show that Castillo will likely receive at least 19 \$13,000.01 in attorneys’ fees in addition to the \$12,000 in statutory damages and 20 \$50,000 in injunctive relief. 21 When calculating the amount in controversy, the total must include “all relief to 22 which a plaintiff is entitled if the action succeeds.” Fritsch, 899 F.3d at 794.

23 Therefore, a defendant may attempt to prove by a preponderance of the evidence that 24 attorneys’ fees should be included in the amount in controversy. Id. A defendant may 25 prove attorneys’ fees by citing awards in other cases with sufficiently similar facts and 26 claims. See, e.g., Baracco, 2019 WL 276840, at *4; Ramirez v. Volkswagen Grp. of 27 Am., Inc., No. 2:22-cv-00734-MWF (MRWx), 2022 WL 2610247, at *5 (C.D.

Cal. 28 July 8, 2022) (rejecting the defendant’s proof of similar attorneys’ fee awards in other 1 cases because it “does not present argument on why this case would result in a specific 2 attorney’s fee award based on other cases with comparable facts”). 3 In Baracco, the defendant cited attorneys’ fees awarded in other Unruh cases to 4 argue that the plaintiff’s award in that case would exceed the jurisdictional minimum.

5 2019 WL 276840, at *4. The court found that the defendant did not meet its 6 evidentiary burden because the circumstances of the cited cases were sufficiently 7 dissimilar to render them irrelevant. *Id.*; see also *Walton v. AT&T Mobility*, No. 2:11- 8 cv-01988-JHN (JCx), 2011 WL 2784290, at *2 (C.D. Cal. July 14, 2011) (declining to 9 address the inclusion of future attorneys' fees in the amount in controversy because 10 the defendant "did not provide any factual basis for determining how much attorney's 11 fees have been incurred thus far and will be incurred in the future[, and] [b]ald 12 assertions are simply not enough.") 13 Here, Tommy Bahama suggests no specific amount of fees but cites three 14 examples of attorneys' fees awarded in other Unruh Act cases to support that "a 15 substantial recovery in attorneys' fees" should be included in the amount in 16 controversy.

(Opp'n 7; see NOR ¶ 19.) However, none of the cases cited are similar 17 enough to be relevant. In *Engel v. Worthington*, the court awarded \$80,000 in 18 attorneys' fees for a claim that took ten years to resolve on appeal. 60 Cal. App. 4th 19 628, 635–36 (1997).

In *Antoninetti v. Chipotle Mexican Grill, Inc.*, the court awarded 20 \$317, 927.50 in fees for a class action suit. 49 F. Supp. 3d 710, 726 (S.D. Cal. 2014). 21 And in *Hubbard v. Twin Oaks Health and Rehabilitation Center*, the court awarded 22 approximately \$60,000 in fees for a case involving seven causes of action. 406 F. 23 Supp. 2d 1096, 1100–01 (E.D. Cal. 2005).

24 As in *Baracco*, the differing circumstances in each of these cases do not provide 25 a useful comparison to calculate attorneys' fees here, because Castillo's claim 26 involves only one plaintiff and one cause of action that is unlikely to take ten years to 27 resolve. Castillo provides her own estimate of the attorneys' fees associated with 28 removal, \$1,500, which the Court takes as the correct number in the absence of 1 substantive evidence from Tommy Bahama to the contrary.

As Tommy Bahama 2 offers none, it therefore fails to prove its estimate of "a substantial" amount of 3 attorneys' fees associated with this action. 4 Given that \$12,000 in statutory damages, \$50,000 of injunctive relief, and 5 \$1,500 in reasonable attorneys' fees amounts to \$63,500, and does not exceed the 6 \$75,000 jurisdictional minimum, Tommy Bahama fails to meet its burden to prove 7 diversity jurisdiction exists here.

8 C. Plaintiff's Request for Attorneys' Fees 9 Castillo argues that Tommy Bahama was unreasonable to remove the case to 10 federal court and seeks \$1,500 in attorneys' fees incurred as a result of the removal. 11 (Mot. 9–10.) 12 "Absent unusual circumstances, courts may award attorney's fees under 13 § 1447(c) only where the removing party lacked an objectively reasonable basis for 14 seeking removal." *Martin v. Franklin Capital Corp.*, 546 U.S. 132, 141 (2005).

15 Given the ambiguity of federal jurisdiction over Unruh claims for injunctive relief, 16 and the lack of binding authority on this issue in the Ninth Circuit, courts in this 17 District generally

decline to award attorneys' fees to plaintiffs on remand. See 18 Thurston, 2017 WL 658806, at *3 (declining to award attorneys fees because presence 19 of federal jurisdiction was "ambiguous"); Licea v. Reebok Int'l Ltd., No. 5:19-cv- 20 00970-TJH (Ex), 2019 WL 4014431, at *1 (C.D.

Cal. Aug. 23, 2019) (same); Fontano 21 v. Little Caesar Enters., Inc., No. 2:10-cv-6707-GAF (FFMx), 2010 WL 4607021, 22 at *2 (C.D. Cal. Nov. 3, 2010)(same). 23 The Court does not find Tommy Bahama's removal to federal court objectively 24 unreasonable because there is no settled precedent on this issue and district courts 25 have not always ruled consistently on the issue.

As such, the Court DENIES 26 Castillo's request for attorneys' fees associated with removal. However, Tommy 27 Bahama's argument is becoming less objectively reasonable the more its counsel 28 continues to make the same rejected arguments. See Rutherford v. La Jolla Riviera Apartment House LLC, No. 19-cv-1349-JM (MDD), 2019 WL 6125255, at *6 2 || (S.D. Cal. Nov.

19, 2019) ("Continually making the same losing arguments in support 3 || of removal... can be grounds for awarding attorney's fees."); Rosales v. Re/Max 4|| LLC, No. 2:20-cv-10850-FMO (AGRx), 2020 WL 7480121, at *2 (C.D. Cal. Dec. 18, 5 || 2020) (rejecting argument that an Unruh claim necessarily implicates the ADA and 6 || creates federal question jurisdiction); Martinez v. Greatcollections.com, LLC, 7 || No. 8:19-cv-01647-JLS (KESx), 2019 WL 4742299, at *1—2 (C.D.

Cal. Sept. 27, 8 | 2019) (same); Rios v. New York and Co., No. 2:17-cv-04676-ODW (AGRx), 9] 2017 WL 3575220, at*2 (C.D.Cal. Aug. 2017) (same); Licea, 2019 WL 10 || 4014431, at *1 (same); Thurston, 2017 WL 658806, at *3 (same). 11 Vv. CONCLUSION 12 For the reasons discussed above, the Court GRANTS Castillo's Motion to 13 || Remand and DENIES Castillo's request for attorneys' fees.

(ECF No. 9.) The Court 14 || REMANDS the action to the Superior Court of the State of California, County of Los 15 || Angeles, West Covina Courthouse, 1427 West Covina Parkway, West Covina, 16 || California, 91790, Case No. 25PSCV00624. 17 18 IT IS SO ORDERED. 19 20 July 9, 2025 ☐☐ 21 A 4 Giedlliod 3 OTIS D. WRIGHT, I 4 UNITED STATES DISTRICT JUDGE 25 26 27 28