

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Karen L. Griffin v. Denise Mathre Chiropractic Corporation, et al.

Griffin · No. 2:25-cv-02675-DC-CSK · Decided January 5, 2026

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 KAREN L. GRIFFIN, Case No. 2:25-cv-02675-DC-CSK 12 Plaintiff, 13 v.
FINDINGS AND RECOMMENDATIONS TO REMAND TO STATE COURT 14 DENISE
MATHRE CHIROPRACTIC CORPORATION, et al., 15 Defendants. (ECF Nos. 1, 2, 4) 16 17 18
Defendant Denise P. Mathre is representing herself in this action and seeks leave 19 to proceed in
forma pauperis (“IFP”) pursuant to 28 U.S.C. § 1915.1 (ECF No. 2.)

For the 20 reasons that follow, the Court recommends Defendant’s IFP application be denied, this
21 action be remanded back to state court, and Plaintiff Karen L. Griffin’s motion to strike, or 22
in the alternative, motion to remand be denied as moot. 23 I. MOTION TO PROCEED IN
FORMA PAUPERIS 24 28 U.S.C. § 1915(a) provides that the court may authorize the
commencement, 25 prosecution or defense of any suit without prepayment of fees or security “by
a person 26 who submits an affidavit stating the person is “unable to pay such fees or give security
27 1 This matter proceeds before the undersigned pursuant to 28 U.S.C. § 636, Fed.

R. 28 Civ. P. 72, and Local Rule 302(a). See 12/08/2025 Order (ECF No. 7). 1 therefor.” This
affidavit is to include, among other things, a statement of all assets the 2 person possesses. Id. The
IFP statute does not itself define what constitutes insufficient 3 assets. See Escobedo v. Applebees,
787 F.3d 1226, 1234 (9th Cir. 2015).

In Escobedo, 4 the Ninth Circuit stated that an affidavit in support of an IFP application is
sufficient 5 where it alleges that the affiant cannot pay court costs and still afford the necessities of
6 life. Id. “One need not be absolutely destitute to obtain benefits of the in forma pauperis 7
statute.” Id. Nonetheless, a party seeking IFP status must allege poverty “with some 8
particularity, definiteness and certainty.” Id. According to the United States Department 9 of
Health and Human Services, the current poverty guideline for a household of one (not 10 residing
in Alaska or Hawaii) is \$15,060.00.

See U.S. Dpt. Health & Human Service 11 (available at <https://aspe.hhs.gov/poverty-guidelines>).
12 Here, Defendant’s IFP application is incomplete. See ECF No. 2. Defendant has 13 failed to
answer questions related to Defendant’s “other income” and assets. Id. at 1 ¶3, 14 2 ¶ 5.

Accordingly, Defendant has not made the required showing under 28 U.S.C. 15 § 1915(a). Further, the Court will recommend Defendant's IFP application be denied 16 because there is no basis for federal jurisdiction. "A district court may deny leave to 17 proceed in forma pauperis at the outset if it appears from the face of the proposed 18 complaint that the action is frivolous or without merit." *Minetti v. Port of Seattle*, 152 F.3d 19 1113, 1115 (9th Cir.

1998) (quoting *Tripati v. First Nat. Bank & Tr.*, 821 F.2d 1368, 1370 20 (9th Cir. 1987)); see also *McGee v. Dep't of Child Support Servs.*, 584 Fed. App'x. 638 21 (9th Cir. 2014) ("the district court did not abuse its discretion by denying McGee's 22 request to proceed IFP because it appears from the face of the amended complaint that 23 McGee's action is frivolous or without merit"); *Smart v. Heinze*, 347 F.2d 114, 116 (9th 24 Cir.

1965) ("It is the duty of the District Court to examine any application for leave to 25 proceed in forma pauperis to determine whether the proposed proceeding has merit and 26 if it appears that the proceeding is without merit, the court is bound to deny a motion 27 seeking leave to proceed in forma pauperis.").

Because it appears from the face of 28 Plaintiff's Complaint and Defendant's notice of removal that there is no basis for federal 1 jurisdiction as discussed in more detail below, the Court recommends Defendant's IFP 2 motion be denied. 3 II. SCREENING REQUIREMENT 4 Pursuant to 28 U.S.C. § 1915(e), the court must screen every in forma pauperis 5 proceeding, and must order dismissal of the case if it is "frivolous or malicious," "fails to 6 state a claim on which relief may be granted," or "seeks monetary relief against a 7 defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B); *Lopez v. Smith*, 8 203 F.3d 1122, 1126-27 (2000) (en banc).

A claim is legally frivolous when it lacks an 9 arguable basis either in law or in fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). In 10 reviewing a complaint under this standard, the court accepts as true the factual 11 allegations contained in the complaint, unless they are clearly baseless or fanciful, and 12 construes those allegations in the light most favorable to the plaintiff.

See *id.* at 326-27; 13 *Von Saher v. Norton Simon Museum of Art at Pasadena*, 592 F.3d 954, 960 (9th Cir. 14 2010), cert. denied, 564 U.S. 1037 (2011). 15 III. REMOVAL AND REMAND 16 28 U.S.C. § 1441(a) states "... any civil action brought in a State court of which 17 the district courts of the United States have original jurisdiction, may be removed by the 18 defendant or the defendants, to the district court of the United States...." If at any time 19 before final judgment it appears that the district court lacks subject matter jurisdiction, 20 the case shall be remanded.

28 U.S.C. § 1447(c); see also *Kelton Arms Condo. Owners 21 Ass'n, Inc. v. Homestead Ins. Co.*, 346 F.3d 1190, 1192 (9th Cir. 2003) ("Subject matter 22 jurisdiction may not be waived, and, indeed, we have held that the district court must 23 remand if it lacks jurisdiction."); *Kenny v.*

Wal-Mart Stores, Inc., 881 F.3d 786, 790 (9th Cir. 2018) (“[S]ubject matter jurisdiction is the touchstone for a district court's authority to remand sua sponte.”).

26 IV. DISCUSSION 27 This case was removed to federal court on September 17, 2025 by Defendant, 28 who proceeds without counsel. Removal (ECF No. 1). Plaintiff’s Complaint (ECF No. 1 at 17-14) indicates the Court does not have subject matter jurisdiction, requiring remand. 2 See 28 U.S.C. § 1447(c). 3 A. Lack of Subject Matter Jurisdiction 4 Federal courts are courts of limited jurisdiction and may hear only those cases 5 authorized by federal law.

Kokkonen v. Guardian Life Ins. Co., 511 U.S. 375, 377 (1994). 6 Jurisdiction is a threshold inquiry, and “[f]ederal courts are presumed to lack jurisdiction, 7 ‘unless the contrary appears affirmatively from the record.’” Casey v. Lewis, 4 F.3d 1516, 8 1519 (9th Cir. 1993) (quoting Bender v. Williamsport Area Sch. Dist., 475 U.S. 534, 546 9 (1986)); see Morongo Band of Mission Indians v. Cal. State Bd. of Equalization, 858 10 F.2d 1376, 1380 (9th Cir.

1988). Without jurisdiction, the district court cannot decide the 11 merits of a case or order any relief and must dismiss the case. See Morongo, 858 F.2d 12 at 1380. A federal court’s jurisdiction may be established in one of two ways: actions 13 arising under federal law or those between citizens of different states in which the 14 alleged damages exceed \$75,000.

28 U.S.C. §§ 1331, 1332. “Subject-matter jurisdiction 15 can never be waived or forfeited,” and “courts are obligated to consider sua sponte” 16 subject matter jurisdiction even when not raised by the parties. Gonzalez v. Thaler, 565 17 U.S. 134, 141 (2012). 18 First, the Complaint does not establish the Court’s subject matter jurisdiction. See 19 Compl. (ECF No. 1 at 7-14).

Plaintiff raises the following ten (10) state law claims: 20 (1) retaliation pursuant to Cal. Labor Code § 230; (2) retaliation pursuant to Cal. Labor 21 Code § 6310; (3) retaliation pursuant to Cal. Labor Code § 6311; (4) retaliation pursuant 22 to Cal. Labor Code § 1102.5; (5) wrongful termination pursuant to Cal. Labor Code 23 §§ 230, 631, 6310, 1102.5; (6) failure to provide rest breaks pursuant to Cal. Labor Code 24 § 226.7; (7) failure to provide meal periods pursuant to Cal. Labor Code §§ 226.7, 512; 25 (8) failure to provide accurate wage statements pursuant to Cal. Labor Code § 226(a); 26 (9) failure to pay all wages due upon separation pursuant to Cal. Labor Code § 201; and 27 (10) unlawful business practices pursuant to Cal. Bus. & Prof.

Code §§ 17200, et seq. 28 Compl. ¶¶ 11-30. In Defendant’s notice of removal, Defendant asserts the basis for 1 removal is federal question. Removal at 1 (“Plaintiff alleges claims arising under federal 2 law, including [insert applicable federal statutes, e.g., Title VII, ADA, FMLA], which 3 confer original jurisdiction upon the federal court.”).

However, it is clear from review of the 4 Complaint, there is no federal question asserted in the Complaint. See Vaden v. 5 Discover Bank, 556 U.S. 49, 59-62 (2009) (“Under the longstanding

well-pleaded 6 complaint rule,... a suit ‘arises under’ federal law only when the plaintiff’s statement of 7 his own cause of action shows that it is based upon federal law.”).

8 Second, complete diversity of the parties is lacking here. See 28 U.S.C. § 1332. 9 According to the allegations in the Complaint, Plaintiff is a resident of California. Compl. 10 ¶ 1. Defendants Denise Mathre and Denise Mathre Chiropractic Corporation DBA 11 Achieving Balance Chiropractic are all residents of California. Id. ¶¶ 2-3.

Thus, this case 12 must be remanded back to the Amador County Superior Court for lack of subject matter 13 jurisdiction. See *Ho v. Russi*, 45 F.4th 1083, 1086 (9th Cir. 2022) (noting the district court 14 may issue orders “without notice where lack of jurisdiction appears on the face of the 15 complaint and is obviously not curable”). 16 B. Plaintiff’s Motion to Strike 17 On October 17, 2025, Plaintiff filed a motion to strike, or in the alternative, motion 18 to remand, which was referred to the undersigned by the assigned district judge.

See 19 ECF No. 4; 12/08/2025 Order. Because the Court recommends this action be remanded 20 to state court for lack of jurisdiction, the Court recommends Plaintiff’s motion be denied 21 as moot. 22 V. CONCLUSION 23 Based upon the findings above, it is RECOMMENDED that: 24 1. Defendant’s motion to proceed in forma pauperis (ECF No. 2) be DENIED; 25 2. This action be REMANDED to Amador County Superior Court; 26 3.

Plaintiff’s Motion to Strike (ECF No. 4) be DENIED as moot; and 27 4. The Clerk of the Court be directed to CLOSE this case. 28 These findings and recommendations are submitted to the United States District 1 || Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 2 | 14 days after being served with these findings and recommendations, any party may file 3 || written objections with the Court and serve a copy on all parties.

This document should 4 | be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Any 5 || reply to the objections shall be served on all parties and filed with the Court within 14 6 | days after service of the objections. Failure to file objections within the specified time 7 || may waive the right to appeal the District Court’s order.

Turner v. Duncan, 158 F.3d 449, 8 || 455 (9th Cir. 1998); *Martinez v. Yist*, 951 F.2d 1153, 1156-57 (9th Cir. 1991). 9 10 | Dated: January 5, 2026 C i y S \U 11 CHI SOO KIM 42 UNITED STATES MAGISTRATE JUDGE 13 || 4, grit2675.25 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28