

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Tina Scott v. Wal-Mart Associates, Inc. et al.

No. 5:25-cv-01405-FWS-DTB (C.D. Cal. July 21, 2025) · No. 5:25-cv-01405-FWS-DTB · Decided July 21, 2025

SUMMARY

The Central District of California granted Tina Scott’s motion to remand her employment-related action to Riverside County Superior Court. The court held that removal was timely because the removal period began upon receipt of the certified deposition transcript, but defendants failed to establish fraudulent joinder of the nondiverse individual defendants based on the alleged defamation claim.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Fred W. Slaughter
JURISDICTION	United States District Court for the Central District of California
DECIDED	July 21, 2025
DOCKET	5:25-cv-01405-FWS-DTB
DISPOSITION	remanded
PROCEDURAL POSTURE	Plaintiff moved to remand an employment-related action removed from Riverside County Superior Court on the basis of diversity jurisdiction. Defendants opposed remand, asserting that the California individual defendants had been fraudulently joined. The court granted remand and denied the motion to the extent it challenged the timeliness of removal.
STANDARD OF REVIEW	The removing defendants bore the heavy burden of proving fraudulent joinder by clear and convincing evidence. Remand jurisdiction was considered under the strong presumption against removal jurisdiction and the general presumption against fraudulent joinder. The court also applied an objectively reasonable basis standard to Plaintiff's request for attorney's fees under 28 U.S.C. § 1447(c).
PRECEDENTIAL VALUE	unpublished district court order; precedential status unknown

PARTIES

Tina Scott v. Wal-Mart Associates, Inc., Wal-Mart Stores, Inc.,
Walmart, Inc., LeVonne Perry, Stephanie Dutra, Lisa Hollos, Unnamed
Does

TOPICS

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QUESTIONS PRESENTED

1. Whether receipt of a rough draft deposition transcript triggered the thirty-day removal period under 28 U.S.C. § 1446(b).
2. Whether the California individual defendants were fraudulently joined such that their citizenship could be disregarded for purposes of diversity jurisdiction.
3. Whether Plaintiff was entitled to attorney's fees or sanctions based on Defendants' removal position.

HOLDINGS

1. A rough draft deposition transcript does not start the second thirty-day removal period when the grounds for removal do not become unequivocally clear and certain until the defendant receives the certified transcript. Defendants' removal was therefore timely.
2. The individual California defendants were not shown to be fraudulently joined because Defendants failed to establish by clear and convincing evidence that there was no possibility that Plaintiff could state a defamation claim against them in state court. Their citizenship therefore could not be disregarded, and complete diversity was absent.
3. Plaintiff was not entitled to attorney's fees or sanctions because Defendants had an objectively reasonable basis for removal and their position on the removal deadline was not frivolous.

KEY QUOTATIONS

“the “removal clock does not start until a paper makes a ground for removal unequivocally clear and certain.”” (II.A)

“if there is 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.” (II.B)

“In essence, Defendants have not met their heavy burden of showing that Plaintiff’s defamation claims against the individual defendants are fanciful.” (II.B)

FACTUAL BACKGROUND

Scott sued her former employers and several California-resident individual defendants, alleging employment-related claims including wrongful termination and defamation. Defendants removed the action on diversity grounds, arguing that the individual defendants were fraudulently joined because the defamation claim was barred by the common-interest privilege and the FEHA claims could not be asserted against individual employees. Scott contended that removal was untimely because defense counsel received a rough deposition transcript more than thirty days before removal.

PROCEDURAL HISTORY

Scott initially filed the action in Riverside County Superior Court. Defendants removed it to federal court, and the court previously remanded the case in Scott I while allowing Plaintiff leave to amend and declining to resolve the fraudulent-joinder issue. After amendment and a second removal, Plaintiff again moved to remand. The court held that removal was timely because the thirty-day period began upon receipt of the certified deposition transcript, but found that Defendants failed to establish fraudulent joinder by clear and convincing evidence. The case was remanded to Riverside Superior Court as case number CVRI 2405603.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The case is remanded to Riverside Superior Court as case number CVRI 2405603. The motion to remand was granted insofar as it sought remand; the request to remand based on untimely removal and the request for sanctions were denied.

CASES CITED

- Dietrich v. Boeing Co., 14 F.4th 1089, 1090-91, 1095 (9th Cir. 2021)
- David v. C.H. Robinson Int'l, Inc., 2018 WL 3213716 (C.D. Cal. June 29, 2018)
- BBK Tobacco & Foods LLP v. Skunk Inc., 2020 WL 5237270, at *8 (D. Ariz. Sept. 2, 2020)
- Soukhaphonh v. Hot Topic, Inc., 2018 WL 6252453, at *6 (C.D. Cal. Feb. 8, 2018)
- People v. Chong, 76 Cal. App. 4th 232, 243 (1999)
- Martin v. Franklin Cap. Corp., 546 U.S. 132, 141 (2005)
- Jordan v. Nationstar Mortg. LLC, 781 F.3d 1178, 1184 (9th Cir. 2015)
- Richer v. Travelers Com. Ins. Co., 2017 WL 5618524, at *2 (N.D. Cal. Nov. 22, 2017)
- Grancare, LLC v. Thrower ex rel. Mills, 889 F.3d 543, 548-49 (9th Cir. 2018)
- Chesapeake & Ohio Ry. Co. v. Cockrell, 232 U.S. 146, 152 (1914)
- Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992)
- Hamilton Materials, Inc. v. Dow Chem. Corp., 494 F.3d 1203, 1206 (9th Cir. 2007)
- Hunter v. Philip Morris USA, 582 F.3d 1039, 1044, 1046 (9th Cir. 2009)
- Smallwood v. Ill. Cent. R. Co., 385 F.3d 568, 573 (5th Cir. 2004)

- Tillman v. R.J. Reynolds Tobacco, 340 F.3d 1277, 1279 (11th Cir. 2003)
- Sanborn v. Chronicle Publ'g Co., 18 Cal. 3d 406, 413 (1976)
- Winn v. Case Corp., 33 F.3d 61 (9th Cir. 1994)
- Hill v. Airgas USA, LLC, 2023 WL 9005648, at *2 (C.D. Cal. Nov. 3, 2023)
- Johnson v. Wells Fargo & Co., 2014 WL 6475128, at *7-12 (C.D. Cal. Nov. 19, 2014)
- Umamoto v. Insphere Ins. Sols., Inc., 2013 WL 2084475, at *6 (N.D. Cal. May 14, 2013)
- McBee v. Raytheon Techs. Inc., 2024 WL 182282, at *6 (C.D. Cal. Jan. 16, 2024)

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