

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

Demond Dezeurn v. Flowers Bakeries Sales of SoCal LLC et al.

Dezeurn · No. 5:25-cv-01211-ODW (SPx) · Decided December 8, 2025

OPINION

Demond Dezeurn v. Flowers Bakeries Sales of SoCal LLC et al.

PER CURIAM.

O 1 JS-6

2 3 4 5 6 7 8 United States District Court 9 Central District of California 10 11 DEMOND
DEZEURN, Case № 5:25-cv-01211-ODW (SPx) 12 Plaintiff,

ORDER GRANTING MOTION TO

13 v.

REMAND [19]; AND DENYING AS

14 FLOWERS BAKERIES SALES OF MOOT MOTION TO DISMISS [17]

SOCAL LLC et al., 15 Defendants. 16 17

18 I. INTRODUCTION

19 Plaintiff Demond Dezeurn filed this putative wage-and-hour class action in state 20 court
against Defendants Flowers Bakeries Sales of SoCal LLC, Flowers Bakeries 21 LLC, Flowers
Bakeries Brands LLC, Flowers Bakeries Brands Inc., and Flowers 22 Bakeries Sales of NorCal
LLC (collectively, “Defendants”). (Notice Removal 23 (“NOR”) Ex. A (“Compl.”), Dkt. No. 1-2.)
Defendants removed the action to this 24 Court on the basis of diversity jurisdiction. (NOR ¶ 7,
Dkt. No. 1.) Dezeurn now 25 moves to remand for lack of subject matter jurisdiction. (Mot.
Remand (“Motion” or 26 “Mot.”), Dkt. No. 19). For the following reasons, the Court GRANTS
the Motion.¹ 27 28 1 Having carefully considered the papers filed in connection with the Motion,
the Court deemed the matter appropriate for decision without oral argument. Fed. R. Civ. P. 78;
C.D. Cal. L.R. 7-15.

1 II. BACKGROUND²

2 Dezeurn worked for Defendants as an hourly-paid, non-exempt employee from
3 August 2024 to December 2024. (NOR Ex. E (“FAC”) ¶¶ 2, 7, Dkt. No. 1-6.) He
4 worked at least five days each week and typically more than eight hours each 5 workday. (Id. ¶
13.) Throughout the applicable statutory period, Defendants did not 6 pay minimum and overtime
wages; did not provide uninterrupted meal and rest 7 breaks; did not timely pay final wages at
termination; did not issue accurate wage 8 statements; and did not reimburse necessary business
expenses. (Id. ¶ 14.) 9 On February 21, 2025, Dezeurn filed this putative class action against 10
Defendants. (Compl.) The proposed class consists of Dezeurn and “certain current 11 and former

employees” of Defendants who worked in California as hourly, 12 non-exempt employees during the applicable class period. (FAC ¶ 23.) 13 Dezeurn asserts nine causes of action: (1) failure to pay minimum wages; 14 (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to 15 provide rest periods; (5) failure to indemnify necessary business expenses; (6) failure 16 to timely pay final wages at termination; (7) failure to provide accurate wage 17 statements; (8) unfair business practices; and (9) civil penalties under the Private 18 Attorneys General Act. (Id. ¶¶ 30–104.) 19 On May 15, 2025, Defendants removed the action to this Court based on 20 diversity jurisdiction under 28 U.S.C. § 1332. (NOR ¶ 7.) Defendants contend that 21 this Court has original jurisdiction because the case involves citizens of different 22 states and the amount in controversy exceeds \$75,000.00. (Id. ¶¶ 7–20.) Dezeurn 23 now moves to remand the case for lack of subject matter jurisdiction, specifically with 24 respect to the amount in controversy. (Mot. 1.) 25 26 27 2 All factual references derive from the First Amended Complaint, unless otherwise noted, and 28 well-pleaded factual allegations are accepted as true for purposes of this Motion. See *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

1 III. LEGAL STANDARD

2 Federal courts are courts of limited jurisdiction and possess only that 3 jurisdiction as authorized by the Constitution and federal statute. U.S. Const. art. III, 4 § 2, cl. 1; *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994).

5 Under 28 U.S.C. § 1441(a), a party may remove a civil action brought in a state court 6 to a district court only if the plaintiff could have originally filed the action in federal 7 court. Federal district courts have original jurisdiction where an action arises under 8 federal law, or where each plaintiff’s citizenship is diverse from each defendant’s 9 citizens (i.e., diversity is “complete”), and the amount in controversy exceeds 10 \$75,000. 28 U.S.C. §§ 1331, 1332(a). 11 Under § 1332(a), there is a strong presumption that a court is without 12 jurisdiction until affirmatively proven otherwise. *Fifty Assocs. v. Prudential Ins. Co. 13 of Am.*, 446 F.2d 1187, 1190 (9th Cir. 1970); see *Gaus v. Miles, Inc.*, 980 F.2d 564, 14 566 (9th Cir. 1992) (“Federal jurisdiction must be rejected if there is any doubt as to 15 the right of removal in the first instance.”). When a case is removed from state court, 16 the removing party bears the burden of demonstrating that removal is proper. *Corral 17 v. Select Portfolio Servicing, Inc.*, 878 F.3d 770, 773 (9th Cir. 2017). Removal for 18 lack of jurisdiction under § 1332(a) is strictly construed, and any doubt as to removal 19 is to be resolved in favor of remand. *Id.* at 773–74.

20 IV. DISCUSSION

21 The parties agree that complete diversity exists. (NOR ¶¶ 8–17; Mot. 7.) They 22 dispute, however, whether the amount in controversy exceeds the jurisdictional 23 threshold of \$75,000.00. (Mot. 7–17; Opp’n 2–14, Dkt. No. 21.) In their Notice of 24 Removal, Defendants estimate that the amount in controversy is \$100,067.50, 25 including actual damages of \$9,118.00 and anticipated attorneys’ fees of \$90,949.50. 26 (NOR ¶ 67.) As attorneys’ fees are dispositive to the issue of whether the amount in 27 controversy is met, the Court assumes, without deciding,

that the actual damages amount of \$9,118.00 is in controversy and analyzes only the attorneys' fees. 1 "[W]here an underlying statute authorizes an award of attorneys' fees, either 2 with mandatory or discretionary language, such fees may be included in the amount in 3 controversy." *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1156 (9th Cir. 1998). But 4 a removing defendant must "prove that the amount in controversy (including 5 attorneys' fees) exceeds the jurisdictional threshold by a preponderance of the 6 evidence," and must "make this showing with summary-judgment-type evidence." 7 *Fritsch v. Swift Transp. Co. of Ariz., LLC*, 899 F.3d 785, 795 (9th Cir. 2018). 8 To calculate Dezeurn's attorneys' fees, Defendants estimate that Dezeurn's 9 counsel will expend approximately 174 hours litigating Dezeurn's individual claims at 10 an hourly rate of \$600.00.3 (Opp'n 13–14.) Defendants derive these rates from the 11 attorneys' fees that Dezeurn's counsel incurred in two other state court cases. (See 12 Decl. Frank L. Tobin ISO Opp'n ("Tobin Decl.") ¶¶ 3–4, Dkt. No. 21-1.) Using these 13 rates, Defendants assert that Dezeurn's counsel likely has already expended over 14 40 hours, totaling \$24,000.00 in fees, for work related to the filing of the original and 15 amended complaint, this Motion, and Dezeurn's opposition brief to Defendants' 16 Motion to Dismiss. (Id. ¶ 5.) They also assert that Dezeurn's counsel will expend 17 134 additional hours, totaling \$80,400 in fees, litigating Dezeurn's individual claims 18 before trial begins. (Id. ¶ 6). Defendants argue that Dezeurn's attorneys' fees may 19 total up to \$104,000.00, exceeding the \$75,000.00 jurisdictional threshold. (See id.) 20 Defendants fail to meet their burden with respect to attorneys' fees. First, 21 Defendants' estimate of attorneys' hours is highly speculative. Defendants offer no 22 support for their assertions regarding the hours that Dezeurn's counsel has already 23 expended or will expend in this case. Although Defendants cite two state court cases 24 involving the same counsel, they do not attempt to analogize those two cases to the 25 3 In their Opposition, Defendants assert two different total hours forecasts (150 hours and 174 hours) 26 and two different hourly rate assumptions (\$606.33 and \$600.00). (Opp'n 12–14; Tobin Decl. ¶ 6.) These competing assumptions result in different estimates. As Defendants provide declaration 27 testimony in support of the 174-hour assumption and the \$600.00 hourly rate assumption, the Court 28 accepts these figures as the inputs on which Defendants rely to estimate the attorneys' fees amount. (Tobin Decl. ¶ 6; Opp'n 13–14.) 1 facts here, even though they bear the burden to prove that removal is proper. (See 2 Opp'n 11–12.) In any event, the Court doubts whether the cases Defendants cite are 3 sufficiently analogous. The first case Defendants cite does not contain any facts to 4 help the Court determine whether it is analogous to this case. (Tobin Decl. Ex. A, 5 Dkt. No. 21-2.) The second case is not even a wage-and-hour case, but rather a 6 retaliation and disability accommodation case. (Tobin Decl. Ex. B, Dkt. No. 21-3.) 7 Thus, the Court finds that Defendants' estimate of attorneys' hours is highly 8 speculative and cannot conclude that it is "more likely than not" that Dezeurn "may 9 incur a similar fee award." *Kaplan Kaplan v. BMW of N. Am., LLC*, No. 21-cv-00857 10 TWR (AGS), 2021 WL 4352340, at *6 (S.D. Cal. Sept. 24, 2021) ("[Other] cases 11 must be similar enough to the case at hand that the court can conclude that it is more 12 likely than not that the plaintiff may

incur a similar fee award.”). 13 Second, any attorneys’ fees must be divided among the class members, bringing 14 Defendants’ amount in controversy estimate well below the jurisdictional minimum. 15 In a putative class action, attorneys’ fees “cannot be allocated solely to [the named] 16 plaintiffs for purposes of amount in controversy.” *Gibson v. Chrysler Corp.*, 261 F.3d 17 927, 942 (9th Cir. 2001); see *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 858 18 (9th Cir. 2001). Here, Dezeurn brings this case as a class action. As a putative class 19 action, attorneys’ fees cannot be allocated solely to Dezeurn for purposes of 20 calculating the amount in controversy. *Gibson*, 261 F.3d at 942. As such, the Court 21 cannot attribute Defendants’ total estimated attorneys’ fees solely to Dezeurn for 22 purposes of the amount in controversy calculus. 23 Defendants argue that Dezeurn’s and other district courts’ interpretation of 24 *Gibson*, to require “that attorneys’ fees in a class case must be pro-rated among 25 putative class members when determining the amount in controversy,” is wrong. 26 (Opp’n 6–9.) Defendants argue that *Gibson* “does not apply here” because it only 27 “analyzed whether attorneys’ fees sought in a class action exclusively under 28 [California Code of Civil Procedure] section 1021.5 could be attributed to the named 1 plaintiff,” and Dezeurn “also seeks fees under sections 226, 1194, 218.5 and 2802 of 2 the California Labor Code.” (Id. at 6.) However, Defendants fail to consider that “the 3 relevant sections of the California Labor Code do not authorize awards of attorneys’ 4 fees ‘solely to the named plaintiffs in a class action,’ but rather to ‘an employee’ or 5 ‘any employee’ who prevails on his or her claim.” *Rodriguez v. Goodrich Corp.*,

6 No. 2:14-cv-01026 JAM AC, 2014 WL 3842904, at *3 (E.D. Cal. Aug. 1, 2014)

7 (citing California Labor Code sections 226 and 1194 and holding that attorneys’ fees 8 in a class action must be divided by the number of putative class members for 9 purposes of amount in controversy); *Lamar v. Wyndham Vacation Resorts, Inc.*, No. 10 25-cv-04191-JST, 2025 WL 1823114, at *2 (N.D. Cal. July 2, 2025) (same). 11 Defendants also contend that *Gibson* is distinguishable from the facts here, 12 because the defendants in *Gibson* “tried to aggregate the amount of fees associated 13 with the entire class,” whereas here, Defendants are “basing the amount recoverable 14 on [Dezeurn’s] individual claims.” (Opp’n 7–8.) This is a distinction without a 15 difference. The court in *Gibson* was primarily concerned with whether the attorneys’ 16 fees award would be “allocated solely to the named plaintiffs.” *Gibson*, 261 F.3d 17 at 941. If so, then attorneys’ fees can be factored into the amount in controversy 18 calculus because the named plaintiffs stand to recover all fees. See id. at 942. If not, 19 then attorneys’ fees cannot be factored into the amount in controversy estimate 20 because they “cannot be allocated solely to” the named plaintiffs. See id. Defendants 21 do not argue—nor could they—that Dezeurn, as the named Plaintiff, stands to collect 22 the entire attorneys’ fees award. As such, the Court finds that the rationale in *Gibson* 23 applies with equal force here. 24 As the attorneys’ fees “must be divided among all members of the plaintiff class 25 for purposes of amount in controversy,” *Kanter*, 265 F.3d at 858, Defendants have 26 failed to carry their burden to show that the attorneys’ fees should be included in the 27 amount in controversy calculation, *Fritsch*, 888 F.3d at

795 (“A district court may 28 reject the defendant’s attempts to include future attorneys’ fees in the amount in 1 || controversy if the defendant fails to satisfy this burden of proof.”). Without 2 | considering the attorneys’ fees, the amount in controversy here yields a maximum of 3 | \$9,118.00, falling short of the \$75,000.00 jurisdictional threshold.

4 Vv. CONCLUSION

5 For the foregoing reasons, the Court GRANTS Dezeurn’s Motion to Remand, 6 || (Dkt. No. 19), and REMANDS this case to the Superior Court of California, County of San Bernardino, 247 West 3rd Street, San Bernardino, California 92415, Case 8 | No. CIVSB2505225. 9 In light of the above disposition, the Court DENIES AS MOOT Defendants’ 10 | Motion to Dismiss. (Dkt. No. 17). 11 All dates are hereby VACATED. The Clerk of Court shall close the case. 12 13 IT IS SO ORDERED. 14

15 December 8, 2025

18 OTIS D. HT, II

9 UNITED STATES ‘DISTRICT JUDGE

20 21 22 23 24 25 26 27 28