

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

John Susino v. Safeway Inc.

Susino v. Safeway · No. 5:25-cv-03857-EJD · Decided August 8, 2025

SUMMARY

The United States District Court for the Northern District of California ordered Safeway and the other defendants to show cause why John Susino’s removed action should not be remanded to California state court. The court questioned federal-question jurisdiction, concluding that anticipated LMRA preemption defenses and references to federal labor statutes did not establish jurisdiction under the well-pleaded complaint rule.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Edward J. Davila
JURISDICTION	United States District Court for the Northern District of California
DECIDED	August 8, 2025
DOCKET	5:25-cv-03857-EJD
DISPOSITION	other
PROCEDURAL POSTURE	Defendants removed Plaintiff's California state-court action to federal district court and asserted federal-question jurisdiction based principally on Section 301 preemption and references to federal labor statutes. The district court issued an order to show cause why the action should not be remanded.
STANDARD OF REVIEW	The court independently determines whether federal subject-matter jurisdiction exists after removal; removal statutes are strictly construed against removal, and the removing defendant bears the burden of establishing jurisdiction.
PRECEDENTIAL VALUE	Unpublished district court order; precedential status not stated
PARTIES	Safeway, Inc., et al. v. John Susino

TOPICS

- subject matter jurisdiction
- civil procedure
- wrongful termination
- retaliation
- employment law

PRACTICE AREAS

civil procedure

employment law

federal jurisdiction

QUESTIONS PRESENTED

1. Whether Defendants established federal-question jurisdiction sufficient to support removal based on an anticipated or actual Section 301 preemption defense.
2. Whether references to the Taft-Hartley Act or National Labor Relations Act in the complaint established federal-question jurisdiction.
3. Whether the action should be remanded to state court for lack of subject-matter jurisdiction.

HOLDINGS

1. An actual or anticipated federal defense, including a Section 301 preemption defense, does not establish federal-question jurisdiction under the well-pleaded complaint rule.
2. Merely referencing federal statutes in the text of a complaint does not, by itself, establish that the claims arise under federal law.

KEY QUOTATIONS

“Once a case is removed to federal court, the court has an independent obligation to determine that it has federal subject matter jurisdiction.” (at 1)

“The removal statute is strictly construed against removal jurisdiction . . . [and] [t]he defendant bears the burden of establishing that removal is proper.” (at 1)

“Federal jurisdiction cannot be predicated on an actual or anticipated defense . . . Nor can federal jurisdiction rest upon an actual or anticipated counterclaim.” (at 2)

FACTUAL BACKGROUND

Pro se Plaintiff John Susino filed a state-court complaint labeling his claims as violations brought under California's Private Attorneys General Act and alleging numerous employment-related and other causes of action. Defendants removed the action, asserting federal-question jurisdiction based on Section 301 of the Labor Management Relations Act and on the complaint's references to the Taft-Hartley Act and National Labor Relations Act. The court concluded that the complaint appeared to assert claims under PAGA and California law, and that the federal references did not establish that the claims arose under federal law.

PROCEDURAL HISTORY

Plaintiff commenced the action in the Superior Court of Santa Clara County on February 4, 2025. Defendants removed it to the Northern District of California on May 2, 2025. The district court independently reviewed subject-matter jurisdiction, found the asserted bases for removal insufficient on the face of the complaint, ordered Defendants to show cause why the action should not be remanded, and vacated the initial case-management conference and motion hearing pending resolution of jurisdiction.

DISPOSITION

other

REMAND INSTRUCTIONS

Defendants were ordered to respond to the order to show cause no later than August 22, 2025. If Defendants failed to respond, the case would be remanded to the Superior Court of Santa Clara County. The August 14, 2025 initial case-management conference and motion hearing were vacated pending resolution of the jurisdictional issue.

CASES CITED

- Valdez v. Allstate Insurance Co., 372 F.3d 1115, 1116 (9th Cir. 2004)
- Provincial Government of Marinduque v. Placer Dome, Inc., 582 F.3d 1083, 1087 (9th Cir. 2009)
- Thompson v. McCombe, 99 F.3d 352, 353 (9th Cir. 1996)
- Kokkonen v. Guardian Life Insurance Co. of America, 511 U.S. 375, 377 (1994)
- Christianson v. Colt Industries Operating Corp., 486 U.S. 800, 808 (1988)
- Vaden v. Discover Bank, 556 U.S. 49, 60 (2009)
- Caterpillar Inc. v. Williams, 482 U.S. 386 (1987)
- Franchise Tax Board of California v. Construction Laborers Vacation Trust, 463 U.S. 1, 27-28 (1983)

OPINION

John Susino v. Safeway Inc.

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 SAN JOSE DIVISION

7 8 JOHN SUSINO, Case No. 5:25-cv-03857-EJD 9 Plaintiff, ORDER TO SHOW CAUSE WHY
ACTION SHOULD NOT BE

10 v. REMANDED TO STATE COURT

11 SAFEWAY, INC., et al., Defendants. 12 13 Pro se Plaintiff John Susino (“Plaintiff”) commenced this action on February 4, 2025, in 14 the Superior Court of Santa Clara County. Compl., ECF No. 1-2, at 12–93. The heading located 15 above Plaintiff’s claims states: “Violations of Law and Rights Against Plaintiff Susino and Other 16 Employees Via Private Attorney General Act” (“PAGA”). Id. at 32. PAGA authorizes employees 17 to file lawsuits to recover civil penalties on behalf of the State of California for California Labor 18 Code violations. Cal. Labor Code §§ 2698, et seq. Under this heading, Plaintiff lists twenty-eight 19 causes of action: discrimination in employment; stalking; retaliation; harassment; battery; fraud; 20

conspiracy; breach of contract; hostile work environment; negligent misrepresentation; deceit; 21
reasonable reliance; intentional misrepresentation; Bane Act violations; intentional economic 22
interference; emotional distress; breach of fiduciary duty; conflict of interests; wrongful discharge
23 in violation of public policy; retaliation; work place harassment; disparate impact; failure to 24
prevent harassment, discrimination, or retaliation; concealment; opinions as statements of fact; 25
misrepresentations; reasonable reliance; false promise; and ongoing conspiracy. Compl. 32–71. 26
Defendants removed the case to this Court on May 2, 2025. Notice of Removal, ECF No. 27 1. A
defendant may remove an action from state court to a federal court of original jurisdiction. 1 28
U.S.C. § 1441(a). Once a case is removed to federal court, the court has an independent 2
obligation to determine that it has federal subject matter jurisdiction. *Valdez v. Allstate Ins. Co.*, 3
372 F.3d 1115, 1116 (9th Cir. 2004). The removed action must be remanded back to state court 4
“if at any time before final judgment it appears that the district court lacks subject 5 matter
jurisdiction.” 28 U.S.C. § 1447(c). “The removal statute is strictly construed against 6 removal
jurisdiction . . . [and] [t]he defendant bears the burden of establishing that removal is 7 proper.”
Provincial Gov’t of Marinduque v. Placer Dome, Inc., 582 F.3d 1083, 1087 (9th Cir. 8 2009);
Thompson v. McCombe, 99 F.3d 352, 353 (9th Cir. 1996) (“A party invoking the federal 9 court’s
jurisdiction has the burden of proving the actual existence of subject matter jurisdiction.”). 10
“Federal courts are courts of limited jurisdiction.” *Kokkonen v. Guardian Life Ins. Co of 11*
America, 511 U.S. 375, 377 (1994). Federal jurisdiction can generally arise in two ways: (1) from
12 the presence of a federal question, or (2) from diversity of the parties. See 28 U.S.C. §§ 1331
13 (federal question), 1332 (diversity). Defendants here only assert federal question jurisdiction.
See 14 Notice of Removal. For jurisdiction based on a federal question, courts look to the face of a
“well- 15 pleaded complaint” to determine whether a cause of action is created by federal law or
whether the 16 plaintiff’s right to relief necessarily depends on the resolution of a substantial
question of federal 17 law. *Christianson v. Colt Indus. Operating Corp.*, 486 U.S. 800, 808 (1988).
18 Defendants assert that the Court has original jurisdiction over this action “because a federal 19
question exists under Section 301 of the Labor Management Relations Act” given their defense 20
that Section 301 preempts Plaintiff’s claims. Notice of Removal ¶¶ 6, 12–13. However, “an 21
actual or anticipated defense” does not confer federal jurisdiction. *Vaden v. Discover Bank*, 556 22
U.S. 49, 60 (2009) (“Federal jurisdiction cannot be predicated on an actual or anticipated defense .
23 . . . Nor can federal jurisdiction rest upon an actual or anticipated counterclaim.”); see also 24
Caterpillar Inc. v. Williams, 482 U.S. 386 (1987) (“Under the ‘well-pleaded complaint’ rule, a 25
case may not be removed on the basis of a federal defense”); *Franchise Tax Bd. of California v. 26*
Constr. Laborers Vacation Trust, 463 U.S. 1, 27–28 (1983) (“[F]ederal law [must be] a necessary
27 element of one of the well-pleaded . . . claims.”). 1 Defendants also assert in the Notice of
Removal—though not in their recently filed Joint 2 || Case Management Statement!—that
Plaintiff’s claims are subject to federal question jurisdiction 3 against Defendants Safeway and
UCFW5 only because Plaintiff references the federal Taft- 4 || Hartley Act and/or National Labor

Relations Act on five pages of the Complaint.” Notice of Removal { 15. However, as discussed above, the Complaint suggests that these claims arise from 6 || PAGA, which permits employees to file claims for California Labor Code violations. Compl. 32; 7 see also Joint Case Management Statement 2, ECF No. 20 (“Plaintiff believes the lawsuit that he 8 filed in the Santa Clara County Superior Court on February 4, 2025, should be kept in the Superior 9 || Court and not in this Court because it deals with Plaintiff’s wrongful termination claims and not 10 the same claims as in the lawsuit he filed on February 3, 2025, in this Court.”). Construing the 11 Complaint in the light most favorable to Plaintiff, and in consideration of Plaintiff’s pro se status, 12 || the Court finds that merely referencing federal statutes in the text of the Complaint alone does not 13 show that Plaintiff’s claims “arise out of federal law. v 14 Based on the foregoing, the Court ORDERS Defendants to SHOW CAUSE as to why this © 15 action should not be remanded to state court. Defendants shall respond to this Order no later Q 16 || than August 22, 2025. Failure to respond to the Court’s order will result in remand of this case to = 17 the Santa Clara County Superior Court. Z 18 The Court VACATES the August 14, 2025, initial case management conference and 19 motion hearing pending resolution of the jurisdictional issue. 20 IT IS SO ORDERED. 21 Dated: August 8, 2025 22

EDWARD J. DAVILA

23 United States District Judge 244 5 ' The Court observes that Defendants spent considerable time in the Joint Case Management Statement describing the federal question jurisdiction established in a separate case brought by 26 || Plaintiff before this Court, 25-cv-1102. Joint Statement 2—3. This has no bearing on whether the present case 1s properly before the Court. 27 Defendants erroneously cite to Exhibit 1, which is the summons, not the complaint. Notice of Removal 4 15. The Court will assume Defendants intended to cite to the Complaint in Exhibit 3. 28 || Case No.: 5:25-cv-03857-EJD

ORDER TO SHOW CAUSE WHY CASE SHOULD NOT BE REMANDED