

Scott v. Albertsons Co., Inc.

United States District Court for the Central District of California

August 20, 2025, Decided; August 20, 2025, Filed

2:25-cv-07007-MEMF-SP

Reporter

2025 U.S. Dist. LEXIS 162795 *; 2025 LX 354932

Sondra Scott and Richard Scott v. Albertsons Companies, Inc., et al

Core Terms

settlement, ex parte application, joinder, join, nominal party, fraudulent, nominal, subject matter jurisdiction, binding authority, file a notice, civil action, misrepresent, unanimity

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For Coty Inc., Defendant: Vanthara Meak, LEAD ATTORNEY, Cosmich Simmons and Brown LLP, Novato, CA.

For Gold Bond Co LLC, as successor in interest to Chattem Inc., Defendant: Theodore Christian Yarbrough, LEAD ATTORNEY, Gordon Rees Scully Mansukhani LLP, San Diego, CA; Lindsey M. Jacques, Gordon Rees Scully Mansukhani LLP, San Diego, CA; William L. Coggeshall, Gordon Rees Scully Mansukhani LLP, San Diego, CA.

For Longs Drug Stores California L.L.C., Defendant: Duncan Tyler Justice, LEAD ATTORNEY, Noushan Nouredini, Barnes and Thornburg LLP, Los Angeles, CA.

For LOreal USA SD Inc., Defendant: Steffi H. Henry, LEAD ATTORNEY, [*2] Holly Chang Beal, Taylor Matsumoto, Gordon Rees Scully Mansukhani LLP, Los Angeles, CA; Fred B Lee, Gordon Rees Scully Mansukhani, LLP, Los Angeles, CA.

For Macys Inc., Defendant: Jacqueline Kirk DuBois, Gordon Rees Scully Mansukhani LLP, San Diego, CA; Nicholas Zwarg, Bradf, Gordon Rees Scully Mansukhani LLP, San Diego, CA.

For Martin Himmel Inc., Defendant: Britteny Y. Junious, Christine D Calareso, The Cook Group, Foothill Ranch, CA.

For Nordstrom Inc., Defendant: Scott L Hengesbach, Murchison and Cumming LLP, Los Angeles, CA; Sean S Twomey, Murchison and Cumming, LLP, Irvine, CA.

For Noxell Corporation, Shulton, Inc., Defendants: Vanthara Meak, LEAD ATTORNEY, Cosmich Simmons and Brown LLP, Novato, CA.

For Stater Bros. Markets, Defendant: Duncan Tyler Justice, Noushan Nouredini, Barnes and Thornburg LLP, Los Angeles, CA.

For The Procter and Gamble Manufacturing Company, Defendant: Vanthara Meak, LEAD ATTORNEY, Cosmich Simmons and Brown LLP, Novato, CA.

For The Stephan Co., individually and as successor-in-interest to Old 97 Company, Defendant: Danny S. Kim, Gordon Rees Scully Mansukhani LLP, Irvine, CA; Ryan S Landis, Gordon Rees Scully Mansukhani, Toxic Torts/Asbestos, Irvine, CA.

[*3] For Chanel Inc., Defendant: Matthew Stephen Brady, LEAD ATTORNEY, Farah A. Ballout, John P Katerndahl, Gordon Rees Scully Mansukhani LLP, Irvine, CA.

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Judges: Maame Ewusi-Mensah Frimpong.

Opinion by: Maame Ewusi-Mensah Frimpong

Opinion

CIVIL MINUTES - GENERAL

Proceedings: Order GRANTING Defendants' Ex Parte Application to Remand Case to Los Angeles Superior Court [ECF No. 10] [JS-6]

For the reasons set forth below, the Court GRANTS the Ex Parte Application and REMANDS the case to Los Angeles County Superior Court.

On or about February 25, 2025, Plaintiffs Sondra Scott and Richard Scott ("Plaintiffs") filed this action in Los Angeles County Superior Court. See *generally* ECF No. 1-4 ("Complaint"). This is a personal injury action in which Plaintiffs seek damages under causes of action for negligence, strict liability, negligent misrepresentation, fraudulent concealment, fraudulent misrepresentation, and loss of consortium. *Id.*

On July 30, 2025, Defendant Long Drugs Stores ("Longs") removed the action to this Court. See ECF No. 1 ("NOR"). The NOR specified that [*4] Defendants removed the action pursuant to 28 U.S.C. Section 1332 (which grants federal courts jurisdiction over diversity cases), 28 U.S.C. Section 1441 (which generally governs removal), 28 U.S.C. Section 1446 (which describes procedures for removal). *Id.* at 2.

On August 7, 2025, Plaintiffs filed an ex parte application to remand this action to Los Angeles Superior Court. See ECF No. 10. Plaintiffs seek remand on an ex parte basis because of alleged defects on the face of the removal papers and because delay will cause irreparable prejudice to Plaintiff Sondra Scott who is ill. ECF No. 10-1 ("Application") at 4. Longs filed its Opposition to the Application on August 12, 2025. ECF No. 12 ("Opposition" or "Opp'n"). Defendant Colgate-Palmolive Company ("Colgate") filed an Amended Joinder to Longs's Opposition. ECF No. 15 ("Joinder"). The parties also filed supplemental declarations. ECF Nos. 16, 17.

The Court has considered the Application, and has found that Plaintiffs are correct in their assertion that removal was improper on the basis of unanimity.¹

Federal courts are courts of limited jurisdiction and, as such, "have an independent obligation to determine whether subject matter jurisdiction exists." *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994); *Arbaugh v.*

¹ The Court finds it unnecessary to reach the issue of whether Longs's removal was timely under the Federal Rules of Civil Procedure because the consent issue alone is dispositive, and therefore does not make a determination regarding the timeliness issue at this time.

Y&H Corp., 546 U.S. 500, 501 (2006) (citing *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583 (1999)). Lack of subject matter jurisdiction [*5] may be raised sua sponte by the district court at any point in the litigation. Fed. R. Civ. P. 12(h)(3); see *Ruhrgas*, 526 U.S. at 583.

"When a civil action is removed solely under section 1441(a), all defendants who have been properly joined and served must join in or consent to the removal of the action." 28 U.S.C. § 1446(b)(2)(A). However, "the 'rule of unanimity' does not apply to 'nominal, unknown or fraudulently joined parties.'" *United Computer Sys., Inc. v. AT&T Corp.*, 298 F.3d 756, 762 (9th Cir. 2002).

In the instant case, Longs contends that because Plaintiffs have settled with Chanel, Inc. ("Chanel"), and Christian Dior Perfumes LLC ("Christian Dior"), "these defendants do not have a real interest in the litigation" and therefore "are nominal defendants, and their joinder or consent is no longer proper pursuant to 28 U.S.C. § 1446 for removal of civil actions pursuant to 28 U.S.C. § 1441." NOR at 9-10; see Opp'n at 10-11 (arguing that Plaintiffs filed notices of settlement, but otherwise not disputing that the settlements are yet to be finalized); see also Joinder at 2, 4 (arguing that Chanel and Christian Dior are nominal parties because Plaintiffs filed notices of settlement, but otherwise not disputing that the settlements are yet to be finalized). The Court finds this argument unavailing. For the purposes of necessity of joining in removal, "[a] defendant is a [*6] nominal party where his role is limited to that of a stakeholder or depository." *Hewitt v. City of Stanton*, 798 F. 2d 1230, 12333 (9th Cir. 1986). To be "[n]ominal means simply a party having no immediately apparent stake in the litigation either prior or subsequent to the act of removal." *Hartford Fire Ins. Co. v. Harleysville Mut. Ins. Co.*, 736 F.3d 255, 260 (4th Cir. 2013).

The Court finds that these two defendants are not nominal parties because they have not been settled out of the case. Plaintiffs have agreed in principle to settlement terms with defendants Chanel and Christian Dior, but there are no binding written agreements signed by any of the parties, no claims have been released yet, and no payment is due or has been rendered. ECF No. 10-2 (Declaration of Deborah R. Rosenthal) at 3. The consent of these defendants was therefore necessary for removal, and Longs has not provided proof of any such consent, but rather asserts that the consent is unnecessary. NOR at 9-10; see Opp'n at 10-11. Moreover, neither Longs nor Colgate has provided binding authority that filing of a notice of settlement is sufficient to find a party nominal. See Joinder at 4 (citing a Fifth Circuit caselaw). Therefore, the Court finds that it lacks jurisdiction,² and therefore remand is proper.

Longs asks in the alternative for an opportunity to remedy [*7] this defect, but it provides no binding authority that compels this Court to grant such a request. See *id.* at 11.

Conclusion

Because Longs has failed to show proof of consent to removal from all defendants, the Court GRANTS the Ex Parte Application and REMANDS the action.

IT IS SO ORDERED.

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² Because the Court lacks jurisdiction, it is unable to evaluate Longs's remaining arguments in its Opposition, such as whether the Application is procedurally defective or whether Plaintiffs satisfied the requirements under *Mission Power Eng'g Co. v. Cont'l Cas. Co.*, 883 F. Supp. 488, 490 (C.D. Cal. 1995). See Opp'n at 3-8.