Anguiano v. Mann Packing Co., Inc. et al

2019 | Cited 0 times | N.D. California | July 8, 2019

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

MARIA ANGUIANO,

Plaintiff, v. MANN PACKING CO., INC.,

Defendant.

Case No.19-cv-02133-VKD

ORDER GRANTING MOTION TO REMAND Re: Dkt. No. 17

Plaintiff Maria Anguiano moves to remand this action on the ground that the Court lacks federal subject matter jurisdiction. Dkt. No. 17. The Court heard oral argument on Ms. 28.

All parties have consented to magistrate judge jurisdiction. Dkt. Nos. 12, 13. Having grants Ms.

I. BACKGROUND

Ms. Anguiano works as foodservice plant. Dkt. No. 1-1 ¶ 8. She has worked for Mann Packing since October 19, 1995.

Id. Ms. Anguiano says that throughout her employment, Mann Packing often assigned her multiple job duties and paid her at different rates based on the tasks performed. Id. ¶ 22. When she worked overtime, Mann Packing did not correctly calculate her overtime wages, which should have been based on an average of the regular rates of pay that she received during that pay period. Id. As a result of that miscalculation, Ms. Anguiano was not paid overtime wages at the correct rate of pay, and her wage statements did not list the correct rate of pay for overtime wages. Id.

Ms. Anguiano also says that she was required to pick up her paycheck and wage statements during her meal breaks, which deprived her of the full meal break period. Id. Additionally, she says she was not provided with a duty-free rest break of at least 10 minutes for shifts of 3.5 hours or longer. Id.

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On March 20, 2019, Ms. Anguiano filed a class action lawsuit in state court asserting the following claims: (1) failure to pay overtime wages for hours worked in violation of California Labor Code §§ 510 and 1194; (2) failure to provide off-duty meal periods in violation of California Labor Code §§ 226.7, 1174, 1198, and 1199; (3) failure to provide off-duty rest periods in violation of California Labor Code § 226.7; (4) failure to provide accurate itemized wage statements in violation of California Labor Code § 226; (5) unfair business practices in violation of California Business and Professions Code § 17200 et seq.; and (6) damages for the above violations of the California Labor Code under the Private Attorneys General Act of 2004, California Labor Code § 2698 et seq. Dkt. No. 1-1 ¶¶ 29-58.

Mann Packing removed the action to federal court on April 19, 2019, asserting federal question jurisdiction based on preemption under section 301 of the Labor Management Relations

jurisdiction o that represents certain eligible employees. 28 U.S.C. § 185(a). In its notice of removal, Mann

Packing alleges that, during the relevant time period, Ms. Anguiano and M non- and that . 1

Dkt. No. 1 at 1 2; Dkt. No. 2, Ex. A. After removal, Ms. Anguiano filed an amended complaint. Dkt. No. 19. However, for purposes of this motion, the Court considers only the complaint as it existed at the time of removal. Wisconsin Dep t of Corr. v. Schacht, 524 U.S. 381, 390 (1998) (citing St. Paul Mercury Indemnity Co. v. Red Cab Co., 303 U.S. 283, 291 (1938)).

1 For the purposes of resolving this motion only, the Court assumes that Ms. Anguiano and the other aggrieved employees are parties to a valid collective bargaining agreement. II. LEGAL STANDARD

Removal is proper where the federal courts have original jurisdiction over an action brought in state court. 28 U.S.C. § 1441(a). Courts strictly construe the removal statute against removal. E.g., Provi , 582 F.3d 1083, 1087 (9th Cir. 2009); Luther v. Countrywide Home Loans Servicing, LP, 533 F.3d 1031, 1034 (9th Cir. ny Luther, 533 F.3d at 1034 (citation omitted); see also Moore-Thomas v. Alaska Airlines, Inc. .

removal jurisdiction, based upon a federal question, the court must look to the complaint as of the time the removal petition was filed. Jurisdiction is based on the complaint as originally filed and Abada v. Charles Schwab & Co., 300 F.3d 1112, 1117 (9th Cir. 2002) (quoting f Wash., 856 F.2d 1375, 1379 (9th Cir. 1988)) (emphasis original) (internal quotation marks omitted). Removal pursuant to section 1331 is governed by the - a Caterpillar Inc. v. Williams, 482 U.S. 386, 392 (1987).

-pleaded complaint rule, known as the doctrine of complete preemption. Id. at 393 (quoting Franchise Tax Bd. of Cal. v. Constr. Laborers Vacation Tr. for S. Cal., 463 U.S. 1, 22 (1983)). Throug ordinary state common law complaint into one stating a federal claim for purposes of the well-

Metro. Life Ins. Co. v. Taylor, 481 U.S. 58, 65 (1987). LMRA section 301 is a federal statute with complete preemptive force: if the statutory criteria are met, section 301 will completely preempt claims that are pled exclusively as state law causes of action. See Caterpillar, 482 U.S. at 393. III. DISCUSSION

The issue before this Court is whether LMRA section law claims such that original federal question jurisdiction exists to support the removal of this case from state court.

LMRA section nded directly on rights created by collective- - Caterpillar, 482 U.S. at 395 (quoting Elec. Workers v. Hechler, 481 U.S. 851, 859 n.3 (1987)). It is not Alaska Airlines, Inc. v.

Schurke, 898 F.3d 904, 916 (9th Cir. 2018) la Id. at 914.

The Ninth Circuit has developed a two-step test to determine whether a state law claim satisfies either of these preemption requirements. Id. at 920 (citing Burnside v. Kiewit Pac. Corp., 491 F.3d 1053, 1059 60 (9th Cir. 2007) Id. at 921 (quoting Livadas v. Bradshaw, 512 U.S. 107, 123 (1994)). If it does, the claim

Id.

Ms. Anguiano argues that none of her state law claims satisfy the Burnside test for preemption fifth claims and that the Court may exercise supplemental jurisdiction over her remaining claims.

Dkt. No. 24 at 10, 12. The parties agree that the fourth and fifth claims for inaccurate wage statements and unfair business practices are derivative of the first claim for overtime pay violations under California Labor Code §§ 150 and 1194. 2

Dkt. No. 17 at 13; Dkt. No. 24 at 12. Accordingly, the Court need only analyze whether section 301 preempts the first claim. See Peters v. RFI Enters., Inc., No. 18-cv-02771-BLF, 2018 WL 3869565, at *3 (N.D. Cal. Aug. 15,

2 Section 510 defines a regular workday and a regular workweek, and specifies how overtime must be compensated. Section 1194 specifies the recovery available to an employee for an overtime pay violation. 2018); accord , 65 F. Supp. 3d 932, 964 (C.D. Cal. 2014).

A. Whether the Claim Seeks to Vindicate a Right Created by the CBA At the first step of the Burnside by asking whether it seeks purely to vindicate a right or duty created by the Alaska Airlines, 898 F.3d at 920 21 (quoting Livadas, 512 U.S. at 123).

Ms. Anguiano argues that her state law claims seek to vindicate rights conferred by state substantive non- 14. She further argues that to the extent Mann Packing seeks to assert an affirmative defense

based on the terms of the CBA or based on California Labor Code § 514 (which creates an exception to the requirements of Labor Code § 510), such an affirmative defense cannot establish LMRA section 301 preemption under Ninth Circuit governing precedent. 3

Id. at 14 (citing Alaska Airlines, 898 F.3d at 921; Cramer v. Consol. Freightways, Inc., 255 F.3d 683, 691 (9th Cir. 2001)).

solely on a right or duty created by the CBA. Instead, its opposition focuses solely on whether her

claims require interpretation of the CBA.

B. Whether the Claim Requires Interpretation of the CBA Even where a CBA does not create the right at issue, LMRA section 301 may still preempt a state . Alaska Airlines, 898 F.3d at 921. That is, a state law claim may be preempted where it is . Burnside, 491 F.3d at 1060. The term re than Alaska Airlines, 898 F.3d at 921 (quoting Balcorta v. Twentieth Century-Fox Film Corp., 208 F.3d 1102, 1108 (9th Cir. 2000) (internal quotation marks omitted)). 3

Mann Packing has not answered the complaint and has not yet asserted any affirmative defenses. terms. Id. provision of a collective bargaining agreement . . section 301.

Burnside, 491 F.3d at 1072 (quotation omitted); see also Lingle v. Norge Div. of Magic Chef, Inc., employee and the conduct and motivation of the employer. Neither of the elements requires a

court to interpret any term of a collective-

Ms. Anguiano argues that her California Labor Code § that the Court need not interpret the CBA to resolve that

claim. Dkt. No. 17 at 17 19. She says that, at the most, the Court need merely refer to the CBA to as the basis for calculating what Mann Packing owed her for overtime. Id. at 18. At the hearing, Ms. Anguiano explained that the essence of her overtime claim is not that Mann Packing failed to pay her at the regular rate for regular hours worked, but rather that Mann Packing incorrectly calculated the overtime pay she was owed under California Labor Code § 510 based on the applicable regular rates for the different positions she worked at different times. She analogizes this case to Controulis v. Anheuser-Busch, No. CV 13- 07378 RFK, 2013 WL 6482970, at *2 (C.D. Cal. Nov. 20, 2013), where the court determined the how to calculate the overtime rate, including by providing a definition of the regular hourly rate.

Dkt. No. 17 at 18 19. The pertinent issue, how the overtime rate is Id. at 18 (quoting Controulis, 2013 WL 6482970, at *6) (internal quotation marks omitted).

Mann Packing opposes remand on the ground interpretation of multiple terms in the CBA. Dkt. No. 24 at 8 9. The Court separately addresses

each term that Mann Packing contends requires interpretation.

1. -time hourly base rate of First - s

a. The Company will pay employees at an overtime rate of one and a -time hourly base rate of pay for all hours actually worked over eight (8) in one work day or over forty (40) in one payroll week. The payroll week will run from 12:01 a.m. Sunday 12:00 a.m. Midnight Saturday. Employees will be paid the Friday following the end of the payroll week. b. For all hours worked on Sunday, the Company will pay employees at a rate equal to one and one half (1 ½) times the

Dkt. No. 2, Ex. A at 17 18. Mann Packing argues that because the CBA does not explicitly define - examine extrinsic evidence to Dkt. No. 24 at 8. Ms. Anguiano responds - reference to Section 15.01 and Exhibit A of the CBA, which sets forth the applicable hourly rates for employees by position. Dkt. No. 17 at 19; see also Dkt. No. 25 at 2, 5 7.

At the hearing, the Court sought clarification from the parties regarding whether there was, in fact, an active dispute - it meant anything other than the wage rates listed in Exhibit A to the CBA. Based on that colloquy, the Court is not persuaded that an active dispute exists regarding the meaning of this term. Dkt. No. 29. definition for a term used in a CBA necessarily creates such a dispute. See, e.g., Peters, 2018 WL

3869565 at *6 (finding no preemption where CBA included

Mann Packing argued at the hearing that Ms. Anguiano disputes not only the calculation of her overtime rate of pay, but also the calculation of the regular rate of pay on which the overtime calculation is based. The complaint does indeed refer to this theory of liability: and Class Members worked overtime, however, Defendants failed to calculate and/or factor the

different rates of pay (for those employees with multiple job duties) into the regular rate of pay for -1 ¶ 31. However, this theory of California Labor Codes § 510 claim requires interpretation of the CBA, as opposed to reference to the different wage rates it sets out for each position. Dkt. No. 2, Ex. A. Peters, 2018 WL 3869565, at *6; see also Alaska Airlines, 898 F.3d at 921.

2. Second, Mann Packing argues the term 24 at 8.

When an employee is required to perform a combination job, the wage rate shall be determined by mutual agreement between the Union and the Company. A combination job is one in which the employee is required to perform the work requirements of two or more job classifications resulting

in a material increase to the work load. Dkt. No. 2, Ex. A requires the Court to determine what job functions she and other class members performed, what

the wage rate was for that particular job. Dkt. No. 24 at 8. Ms. Anguiano insists that she does not allege that she ever was required to perform a combination job. Dkt. No. 25 at 4. Rather, she says she was assigned multiple job duties at different times for which she should have been paid different hourly rates not that she was required to perform the duties of different positions in combination simultaneously such that her work load increased materially. Id.; Dkt. No. 1-1 ¶¶ 22, 31. Ms. Anguiano contends that Mann Packing incorrectly calculated the overtime pay she was owed under California Labor Code § 510 based on the applicable regular rates for the different positions she worked at different times, and that the Court need not interpret the term job. Dkt. No. 25 at 4 5. Thus, in dispute. CBA that it believes require interpretation, the Court concludes that Mann Packing has not shown

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4 C. Blackwell and McKinley

Mann Packing urges the Court to follow two district court decisions that pre-date the Ninth en banc decision in Alaska Airlines: Blackwell v. SkyWest Airlines, Inc., No. 06cv0307 DMS (AJB), 2008 WL 5103195 (S.D. Cal. Dec. 3, 2008), and McKinley v. Southwest Airlines Co., No. CV 15-02939-AB (JPRx), 2015 WL 2431644 (C.D. Cal. May 19, 2015). 5

In Blackwell, the issue of preemption arose on summary judgment. 2008 WL 5103195 at *1. The district court reached the preemption issue only after resolving a disputed issue about whether certain agreements between the parties constituted a CBA. Id. at *9. Having concluded th court then determined that the [] an interpretation of Id. at *12. Blackwell is distinguishable at least on this basis, as Mann Packing has not demonstrated that any terms of the CBA will require interpretation in order to .

In McKinley, the preemption question arose on a motion to dismiss. 2015 WL 2431644 at *1. Id. at *3 4. As in Blackwell, the court

including whether those provisions defined categories of remuneration that should be excepted

from the regular rate of pay defined by statute. Id. at *5 6. McKinley, like Blackwell, is , where no such interpretations is required. IV. CONCLUSION

Given the applicable legal standard, including the directive to strictly construe removal jurisdiction, the Court finds that Mann Packing has not demonstrated that resolution of Ms.

the opportunity to again seek removal. See McCray v. Marriott Hotel Services, Inc., 902 F.3d 1005, 1016 n.3 (9th Cir. 2018). 5 Blackwell and McKinley § 151 et seq. The RLA and LMRA section 301 purpose and function, and thus courts analyze them under a single test and body of case law. Alaska Airlines, 898 F.3d at 913 14, n.1. substantially depend on resolution of an active dispute concerning the meaning of any such terms.

Accordingly, not preempted under LMRA section 301 and cannot serve as the basis for federal question jurisdiction. The Court therefore motion to remand.

The Clerk of the Court shall REMAND this case to the Superior Court of California for the County of Monterey. All other pending motions and hearings are TERMINATED and VACATED. The Clerk of the Court shall close the file.

IT IS SO ORDERED. Dated: July 8, 2019

VIRGINIA K. DEMARCHI United States Magistrate Judge