

cc: Remand Order, docket sheet, letter of remand to Los Angeles Superior Court
Case #10M09654

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MEMORANDUM

JS 6

Case No. CV 10-7992 DSF (MANx)

Date 11/4/10

Title Jon Carpenter v. Virgin America, Inc.

Present: The
Honorable

DALE S. FISCHER, United States District Judge

Debra Plato

Not Present

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (In Chambers) Order REMANDING Case to Superior Court of California, County of Los Angeles

Defendant Virgin America, Inc., removed this action based on federal question jurisdiction. There is no federal question stated on the face of the complaint. The notice of removal makes several assertions – without any argument – that various federal statutes and regulations apply to disability discrimination in air travel. However, even if these statutes and regulations are relevant to Plaintiff’s claims, Defendant does not establish that “federal jurisdiction is consistent with congressional judgment about the sound division of labor between state and federal courts” Grable & Sons Metal Prods., Inc. v. Darue Eng’g & Mfg., 545 U.S. 308, 313-14 (2005). Defendant also makes no argument that federal aviation law completely preempts state disability law such that a state law case may be removed even if it states no federal claim on its face. See Hofler v. Aetna US Healthcare of Cal., Inc., 296 F.3d 764, 768 (9th Cir. 2002), abrogated on other grounds by Martin v. Franklin Capital Corp., 546 U.S. 132 (2005).

The case is REMANDED to the Superior Court of California, County of Los Angeles.

IT IS SO ORDERED.