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8 **United States District Court**
9 **Central District of California**
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11 CARMEN ROA, on behalf of herself, and
12 all others similarly situated,

13 Plaintiff,

14 v.

15 TS STAFFING SERVICES, INC.; T.S.

16 EMPLOYMENT, INC.; and DOES 1

17 through 100, inclusive,

18 Defendants.

Case No. 2:14-cv-08424-ODW (MRW)

**ORDER DENYING MOTION TO
REMAND [10]**

19 **I. INTRODUCTION**

20 On August 5, 2014, Plaintiff Carmen Roa filed a putative class action complaint
21 in California state court against her former employers, Defendants TS Staffing
22 Services, Inc. and T.S. Employment, Inc. (collectively “TS Staffing”). (ECF No. 1.)
23 The Complaint alleges numerous wage and hour violations against TS Staffing, and
24 Roa seeks to represent all similarly situated, non-exempt employees during a four-year
25 period. (*Id.*) On October 30, 2014, TS Staffing removed the case pursuant to the
26 Class Action Fairness Act, 28 U.S.C. §§ 1332, 1441 (“CAFA”). (*Id.*) Pending before
27 the Court is Roa’s Motion to Remand. (ECF No. 10.) For the reasons discussed

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1 below, the Court **DENIES** Plaintiff's Motion to Remand.¹ (ECF No. 10.)

2 **II. LEGAL STANDARD**

3 A suit filed in state court may be removed to federal court if the federal court
4 has original jurisdiction. 28 U.S.C. § 1441(a). A defendant seeking to remove a case
5 must file in the district court a notice of removal "containing a short and plain
6 statement of the grounds for removal[.]" *Id.* § 1446(a). CAFA grants federal courts
7 original jurisdiction over class action cases that meet the following requirements: (1)
8 the proposed class contains more than 100 members; (2) minimal diversity exists
9 between the parties (*i.e.*, at least one plaintiff and one defendant are from different
10 states); (3) the amount in controversy exceeds \$5,000,000; and (4) the primary
11 defendants are not states, state officials, or other governmental entities. *Id.*
12 §§ 1332(d)(2), (5). "Congress designed the terms of CAFA specifically to permit a
13 defendant to remove certain class or mass actions into federal court." *Ibarra v.*
14 *Manheim Invs., Inc.*, No. 14-56779, slip op. at *2 (9th Cir. Dec. 8, 2014). The party
15 seeking removal bears the burden of establishing federal jurisdiction. *Durham v.*
16 *Lockheed Martin Corp.*, 445 F.3d 1247, 1252 (9th Cir. 2006) (citing *Gaus v. Miles,*
17 *Inc.*, 980 F.2d 564, 566 (9th Cir. 1992)).

18 **III. DISCUSSION**

19 In its Notice of Removal, TS Staffing alleged that this Court has original
20 jurisdiction over Roa's eleven-count complaint pursuant to CAFA. (ECF No. 1.) In
21 addition to specifically alleging that each requirement of CAFA is satisfied, TS
22 Staffing included a declaration from Leo Camacho, a TS Staffing regional vice
23 president, to support its Notice of Removal. (*Id.*)

24 In her Motion to Dismiss, Roa claims that removal was improper under CAFA.
25 (ECF No. 10.) Roa makes *only* one argument as to why removal is improper: "As
26 Plaintiff objects to the Declaration [of Leo Camacho] on several evidentiary grounds
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28 ¹ After carefully considering the papers filed in support of and in opposition to the Motion, the Court
deems the matter appropriate for decision without oral argument. Fed. R. Civ. P. 78; L.R. 7-15.

1 and requests that the Court strike most portions of the Declaration, no proper evidence
2 is offered by Defendants for their basis of removal, and jurisdiction under CAFA must
3 be denied.” (*Id.* at 3.)

4 A recent Supreme Court opinion is directly on point. In *Dart Cherokee Basin*
5 *Operating Co. v. Owens*, the high court decided what evidentiary support is necessary
6 to remove a case under CAFA. 135 S. Ct. 547, 551 (2014). The defendant in *Dart*
7 removed a class action complaint under CAFA, and in doing so alleged, without
8 evidentiary support, that the amount in controversy requirement was satisfied. *Id.* at
9 551–52. The district court remanded the matter holding that that proof of the amount
10 in controversy was required in the notice of removal itself. *Id.* at 552.

11 Relying on the parallel language in § 1446(a) and Federal Rule of Civil
12 Procedure 8(a), the Supreme Court reversed, concluding that “when a defendant seeks
13 federal-court adjudication, the defendant’s amount-in-controversy allegation should be
14 accepted when not contested by the plaintiff or questioned by the court.” *Id.* at 553.
15 The Court explained that when a plaintiff contests an allegation in the notice of
16 removal, “both sides submit proof and the court decides, by a preponderance of the
17 evidence, whether the amount-in-controversy requirement has been satisfied.” *Id.* at
18 554. Importantly, the Court instructed “that no antiremoval presumption attends cases
19 invoking CAFA[.]” *Id.*

20 Here, TS Staffing specifically alleged that each element of CAFA is satisfied.
21 The Court *must* accept these allegations as true unless “contested by the plaintiff or
22 questioned by the court.” *Id.* at 553. Roa, however, does not contest the allegations
23 themselves, but instead contests TS Staffing’s evidence in support of the allegations.
24 If TS Staffing was not required to submit evidence in support of its allegations, as
25 *Dart Cherokee* teaches, then Roa’s attack on the evidence is fallacious. In light of the
26 “no antiremoval presumption” from *Dart Cherokee*, the Court has no reason to *sua*
27 *sponte* question TS Staffing’s allegations. *Id.* at 554. Furthermore, Roa submitted no
28 independent evidence for the Court to consider. While *Dart Cherokee* focused only

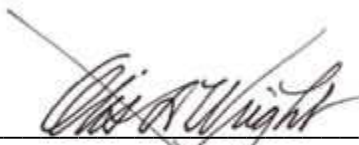
1 on the amount-in-controversy requirement, the Court finds that the rationale behind
2 *Dart Cherokee* applies equally to the other CAFA requirements. The “short and plain
3 statement” language from § 1446(a) applies to the entire notice of removal, and
4 therefore would apply equally to all CAFA allegations and not just the amount-in-
5 controversy requirement.

6 **IV. CONCLUSION**

7 Because Roa’s only argument is foreclosed by Supreme Court precedent, the
8 Court **DENIES** Plaintiff’s Motion to Remand. (ECF No. 10.)

9 **IT IS SO ORDERED.**

10
11 January 22, 2015

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14 **OTIS D. WRIGHT, II**
15 **UNITED STATES DISTRICT JUDGE**
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