

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 17-1530-GW(AJWx)	Date	February 7, 2018
Title	<i>Sepideh T. Saghizadeh v. CVS Pharmacy Inc., et al.</i>		

Defendants’ responsive briefs sufficient to the task, for the following reasons. First, unlike in *Caterpillar*, no judgment has been entered in this action. Therefore, the rule – that “a district court’s error in failing to remand a case improperly removed – is not fatal to the ensuing adjudication if federal jurisdictional requirements are met *at the time judgment is entered*,” 519 U.S. at 64 (emphasis added), has no application here.

Second, *Grupo Dataflux* is not a removal case. See 541 U.S. at 568. Therefore, its rule that a lack of complete diversity at the time of filing a *non-removal case* may be cured by dismissal of nondiverse parties who are not indispensable likewise has no application here. In addition, its commentary on *Caterpillar*, see *id.* at 572-74, does not change the fact that, in *Caterpillar*, the action had actually proceeded to judgment.

Third, *Kakarala* is not a published opinion, and therefore is not binding precedent in this Circuit. See Ninth Cir. R. 36-3(a). Beyond that decision’s status as non-precedential, it reflects a common trait amongst non-binding memoranda dispositions (and one which, even beyond the terms of Ninth Circuit Rule 36-3, counsels caution in relying on such rulings) – a less-than-complete discussion of key facts involved in the case (useful for, among other things, determining whether precedential decisions may be distinguished). For instance, while it observes “[t]hat a non-diverse defendant...was present at an earlier point in the litigation is irrelevant,” 615 Fed. Appx. at 425, there is no mention of just *when* that non-diverse defendant “was present...in the litigation,” *i.e.* whether it was still “present” at the time of removal. If that non-diverse defendant was not present at the time of removal, the case has no similarity to this action *in addition to* not serving as binding precedent.

For the foregoing reasons, and in accordance with the earlier orders issued in this case bearing on this jurisdictional inquiry, see Docket Nos. 10, 14, 16, the Court remands this action forthwith to the Superior Court for the State of California, County of Los Angeles.

Deputy Clerk _____

Initials of Preparer JG