

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JS-6

CIVIL MINUTES - GENERAL

Case No.	CV 17-3904 FMO (FEMx)	Date	July 31, 2017
Title	<u>Jose A. Lopez v. XPO Cartage, Inc.</u>		

Present: The Honorable			Fernando M. Olguin, United States District Judge
Vanessa Figueroa	None	None	
Deputy Clerk	Court Reporter / Recorder	Tape No.	
Attorney Present for Plaintiff:		Attorney Present for Defendant:	
None Present		None Present	

Proceedings: (In Chambers) Order Remanding Action

Having reviewed and considered all the briefing filed with respect to plaintiff's Motion to Remand (Dkt. 17, "Motion"), including the supplemental briefing filed by the parties, the court finds that oral argument is not necessary to resolve the Motion, see Fed. R. Civ. P. 78; Local Rule 7-15; Willis v. Pac. Mar. Ass'n, 244 F.3d 675, 684 n. 2 (9th Cir. 2001), and concludes as follows.

On March 31, 2016, Jose a Lopez ("Lopez") filed a complaint against XPO Cartage, Inc. ("XPO") with the Labor Commissioner, State of California, Department of Industrial Relations, Division of Labor Standards Enforcement (the "Labor Commissioner"), entitled "Jose A. Lopez v. XPO Cartage, Inc., A Delaware Corporation DBA XPO Logistics, State Case No. 05-66595 KR (the "Complaint"). (See Dkt. 1, XPO Cartage Inc.'s Notice of Removal ("NOR") at 2). Lopez's Complaint asserted various state-law labor claims. (See id.; see also id. at Exh. 1 (Complaint)). The Labor Commissioner held an administrative hearing on Lopez's claims, and those of three other individuals who filed similar complaints against XPO. (See id. at ¶ 2). On April 14, 2017, the Labor Commissioner served XPO with a copy of its Order, Decision or Award of the Labor Commissioner ("ODA") relating to all claims. (See Dkt. NOR at ¶ 2 & Exh. 2).

On April 25, 2017, XPO filed a notice of appeal of the ODA in the Los Angeles County Superior ("State Court"). (See Dkt. 1, NOR at ¶ 1). On May 3, 2017, XPO filed a peremptory challenge to the assigned trial judge, (see id. at ¶ 4; id. at Exh. 8), which was accepted on May 4, 2017. (See Dkt. 1, NOR at ¶ 4; id. at Exh. 9). On May 22, 2017, XPO filed its Answer in State Court. (See Dkt. 1, NOR at ¶ 4).

On May 24, 2017, XPO removed the action based on 28 U.S.C. §§ 1332, 1441, and 1446

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(diversity jurisdiction). (See Dkt. 1, NOR at p. 1).

For the reasons set forth in the Court's Order of July 24, 2017, in Gaitan v. XPO Cartage, Inc., CV 17-3913 SJO (ASx), the court grants plaintiff's Motion. Accordingly, IT IS ORDERED that:

1. Plaintiff's Motion (**Document No. 17**) is **granted**.
2. The above-captioned action shall be **remanded** to the Superior Court of the State of California for the County of Los Angeles - Long Beach, 275 Magnolia Ave., Long Beach, CA 90802.
3. The Clerk shall send a certified copy of this Order to the state court.

This order is not intended for publication. Nor is it intended to be included in or submitted to any online service such as Westlaw or Lexis.

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