

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 5:17-cv-00090-SVW-DTB

Date July 19, 2017

Title *John Hakim v. ADESA California, LLC*

JS-6

Present: The Honorable STEPHEN V. WILSON, U.S. DISTRICT JUDGE

Paul M. Cruz

N/A

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

N/A

N/A

Proceedings: IN CHAMBERS ORDER GRANTING PLAINTIFF’S MOTION TO AMEND FIRST AMENDED COMPLAINT AND REMAND CASE [16]

I. Introduction and Analysis

This case stems from a motor vehicle accident in which the Plaintiff John Hakim was struck by a vehicle operated by an auction driver believed to be an employee of the Defendant ADESA California, LLC (“ADESA”). The Plaintiff originally sued the defendant corporation and DOES 1-20, alleging only state causes of action. Dkt. 1. ADESA removed the case on the basis of diversity jurisdiction, as the Plaintiff is a California citizen while ADESA is a Delaware citizen, and the amount in controversy was greater than \$75,000. *Id.*

The Plaintiff now seeks to substitute Defendant Barbara Brown in place of Defendant DOE 1 and remand the case to state court. The Plaintiff alleges that Ms. Brown was the driver of the motor vehicle that struck him and therefore is liable for the accident. Ms. Brown is a California citizen, and therefore if she is added to the case this Court would no longer have subject matter jurisdiction and the case would have to be remanded to state court. ADESA does not oppose the motion and in effect consents to the granting of the Motion to Amend and remanding the case to state court. L.R. 7-9.

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The Court will GRANT the motion.¹ Ms. Brown should be properly substituted as DOE 1, as the Plaintiff did not know her identity at the time the suit was filed. The Plaintiff learned in discovery that Ms. Brown was the driver of the motor vehicle and therefore a proper defendant, as the relief sought against her arises out of the same occurrence which gave rise to the current action against Defendant ADESA, namely, the motor vehicle accident. The inclusion of Ms. Brown destroys diversity, meaning the case must be remanded to state court because this Court no longer has subject matter jurisdiction. ADESA appears to recognize the validity of the motion and does not formerly oppose it. The Court understands the Defendant's non-opposition to be consent to granting the motion.

II. Order

The Defendant's Motion to Amend and Remand the Case is GRANTED. Dkt. 16. Barbara Brown, a California resident, is added to the action as Defendant "DOE 1." The case is REMANDED back to the California State Court for the County of Riverside.

IT IS SO ORDERED.

¹ Having read and considered the papers presented by the parties, the Court finds this matter suitable for determination without oral argument. See Fed. R. Civ. P. 78; Local Rule 7-15. Accordingly, the hearing scheduled for July 31, 2017, at 1:30 p.m. is VACATED and OFF CALENDAR.

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