UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ANDREINA GUZMAN, an individual, Plaintiff, v. GRAHAM PACKACING CO., L.P., et al., Defendants.	No. 2:24-cv-00498-TLN-AC **ORDER**

This matter is before the Court on Plaintiff Andreina Guzman's ("Plaintiff") Motion to Remand. (ECF No. 8.) Defendants Graham Packaging Co, LP, Graham Packaging Pet Technologies, Inc., (collectively "Graham Defendants"), and Aman Singh, ("Singh") (together with Graham Defendants, "Defendants") filed an opposition. (ECF No. 10.) Plaintiff filed a reply. (ECF No. 13.)

Also before the Court is Defendants' Motion to Dismiss. (ECF No. 9.) Plaintiff filed an opposition. (ECF No. 11.) Defendants filed a reply. (ECF No. 14.)

For the reasons set forth below, the Court DENIES Plaintiff's Motion to Remand and GRANTS in part and DENIES in part Defendants' Motion to Dismiss.

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I. FACTUAL AND PROCEDURAL BACKGROUND[1]

This case concerns alleged employment discrimination based on pregnancy. Defendants hired Plaintiff as an "Administrative Specialist III" on or about July 12, 2021, where Singh was the plant controller and managing agent for Graham Defendants. (ECF No. 1 at 22–23.)

In August 2022, Plaintiff informed Singh and Defendants' human resources supervisor, Marcos Sandoval ("Sandoval"), that she was pregnant and would be taking maternity leave. (*Id.* at 23.) Plaintiff returned to work on July 10, 2023, after giving birth a few months prior but was "shocked to find a different employee sitting at her desk and performing her same job duties." (*Id.* at 24.) Two weeks later, Plaintiff attended a meeting wherein her supervisors — Aron Wark ("Wark") and Alfonzo Mora ("Mora") — asked her how she felt about a position change before assigning Plaintiff to a new facility. (*Id.*)

Plaintiff arrived at her new facility on July 26, 2023, under the impression that she was to begin her normal job duties and responsibilities (i.e., the duties she performed prior to her maternity leave). (*Id.*) However, that was not the case. Instead, Plaintiff alleges she began training a new hire employee, Maria Gudino ("Gudino"), to perform her job duties, and after a while, Singh requested Gudino perform them instead of Plaintiff. (*Id.* at 24–25.) About a week later, Wark and Sandoval informed Plaintiff that there was a good possibility her position would be eliminated but that she could transition to become a quality lead — a position in which Plaintiff had no experience and little interest. (*Id.* at 25.)

On August 24, 2023, Defendants suddenly terminated Wark's employment. (*Id.*) Plaintiff called Wark to wish him farewell, and Wark warned Plaintiff that she may be next to be let go. (*Id.*) Specifically, Wark informed Plaintiff that Singh expressly communicated to him and upper management that Plaintiff was about to be terminated because she "took time off work due to her pregnancy and [it was Singh's] belief that Plaintiff would have additional children in the future and again request further time off work." (*Id.*)

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[1] The following allegations are taken from Plaintiff's Complaint. (ECF No. 1 at 21–37.)

About two weeks later, Plaintiff noticed her paystub included a payout for vacation time she had accrued. (*Id.*) Plaintiff inquired about her paycheck, thinking she had been overpaid, only to be terminated by Singh and Sandoval on September 8, 2023. (*Id.*) Plaintiff believes Defendants' decision to terminate her was motivated in whole or in part by her pregnancy and subsequent maternity leave and the possibility that she may again become pregnant and seek maternity leave in the future. (*Id.* at 25–26.)

Plaintiff commenced this lawsuit against Defendants in the Stanislaus County Superior Court on January 18, 2024, alleging eight causes of action: (1) retaliation in violation of the California Fair Employment and Housing Act ("FEHA") (Cal. Gov't Code § 12900 et seq.); (2) failure to prevent discrimination in violation of FEHA; (3) retaliation in violation of the Moore-Brown-Roberti Family Rights Act ("FRA") (Cal. Gov't. Code § 12945.1 et seq.); (4) retaliation in violation of the Family and Medical Leave Act ("FMLA") (29 U.S.C. § 2601 et seq.); (5) pregnancy/sex discrimination in violation of FEHA; (6) violation of California Government Code § 12945 (§ 12945); (7) wrongful termination in violation of California public policy; and (8) violation of California's unfair competition laws ("UCL") (Cal. Bus. & Prof. Code § 17200 et seq.) (ECF No. 1 at 26–36.)

Defendants removed the action to this Court on February 19, 2024, based on diversity and federal question jurisdiction. (ECF No. 2.) Plaintiff filed the instant motion to remand on February 22, 2024, and Defendants filed the instant motion to dismiss the next day. (ECF Nos. 8, 9.) Both motions are fully briefed. (ECF Nos. 10–11, 13–14.)

II. MOTION TO REMAND

A. Standard of Law

"[A]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by … defendants, to the district court of the United States for the district and division embracing the place where such action is pending." 28 U.S.C. § 1441(a). District courts have original jurisdiction over all civil actions arising under federal law, or between citizens of different states in which the amount in controversy exceeds $75,000. 28 U.S.C. §§ 1331, 1332. District courts also have supplemental jurisdiction "over all

other claims that are so related to claims in the action within such original jurisdiction, such that they form part of the same case or controversy." 28 U.S.C. § 1367(a).

Removal is proper only when the state-court action could have originally been filed in federal court. *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987). Courts "strictly construe the removal statute against removal jurisdiction," and "the defendant always has the burden of establishing that removal is proper." *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992) (per curiam). Furthermore, "[i]f the district court at any time determines that it lacks subject matter jurisdiction over the removed action, it must remedy the improvident grant of removal by remanding the action to state court." *California ex rel. Lockyer v. Dynegy, Inc.*, 375 F.3d 831, 838, *as amended*, 387 F.3d 966 (9th Cir. 2004).

B. Analysis

In moving to remand, Plaintiff argues: (1) the Court does not have original diversity jurisdiction because Defendant is a California resident, there is no fraudulent joinder, and the amount in controversy has not been established; and (2) despite the existence of federal question jurisdiction, the Court should decline to exercise supplemental jurisdiction over the state-law claims because they substantially predominate over the federal claims. (ECF No. 8 at 9–15.)

In opposition, Defendants contend the Court should deny Plaintiff's motion for remand because: (1) Plaintiff admits federal question jurisdiction exists; (2) Plaintiff's state-law claims are based on the same case or controversy as her federal claim; (3) Plaintiff's state-law claims do not predominate when they are based on the same facts, evidence, and witnesses; (4) if the Court determined Plaintiff's state-law claims predominate, the Court's jurisdiction would be restored by severing the state-law claims from this action; and (5) complete diversity exists between the parties and the amount in controversy requirement has been met. (ECF No. 10 at 7–17.)

The Court finds that it has jurisdiction over this action and thus removal was proper. As already discussed, removal is proper when the state-court action could have originally been filed in federal court. *Caterpillar Inc.*, 482 U.S. at 392. Complaints containing a federal cause of action could have originally been filed in federal court. 28 U.S.C. § 1331. Plaintiff concedes — nor could she reasonably argue otherwise — that her fourth cause of action for retaliation in

violation of the FMLA (29 U.S.C. § 2601 *et seq.*) is a federal cause of action that confers upon the Court federal question jurisdiction. (*See* ECF No. 8 at 12–15.) Nevertheless, Plaintiff argues the Court should decline to exercise supplemental jurisdiction over her state-law claims. (*Id.*) However, the propriety of exercising supplemental jurisdiction over Plaintiff's state-law claims is irrelevant to the threshold question of whether removal was proper. All Defendants need to show is that removal was proper because the Court has diversity or federal question jurisdiction. *Gaus*, 980 F.2d at 566. Defendants, through their own pleadings and Plaintiff's concession, have demonstrated the latter.

Accordingly, the Court DENIES Plaintiff's motion to remand.[2]

III. MOTION TO DISMISS

A. Standard of Law

A motion to dismiss for failure to state a claim upon which relief can be granted under Federal Rule of Civil Procedure ("Rule") 12(b)(6) tests the legal sufficiency of a complaint. *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001). Rule 8(a) requires that a pleading contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 677–78 (2009). Under notice pleading in federal court, the complaint must "give the defendant fair notice of what the . . . claim is and the grounds upon which it rests." *Bell Atlantic v. Twombly*, 550 U.S. 544, 555 (2007) (internal citation and quotations omitted). "This simplified notice pleading standard relies on liberal discovery rules and summary judgment motions to define disputed facts and issues and to dispose of unmeritorious claims." *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 512 (2002).

On a motion to dismiss, the factual allegations of the complaint must be accepted as true. *Cruz v. Beto*, 405 U.S. 319, 322 (1972). A court must give the plaintiff the benefit of every reasonable inference to be drawn from the "well-pleaded" allegations of the complaint. *Retail Clerks Int'l Ass'n v. Schermerhorn*, 373 U.S. 746, 753 n.6 (1963). A plaintiff need not allege "'specific facts' beyond those necessary to state his claim and the grounds showing entitlement to

[2] Because the Court finds federal question jurisdiction exists, the Court declines to address the parties' arguments related to diversity jurisdiction.

relief." *Twombly*, 550 U.S. at 570 (internal citation omitted).

Nevertheless, a court "need not assume the truth of legal conclusions cast in the form of factual allegations." *U.S. ex rel. Chunie v. Ringrose*, 788 F.2d 638, 643 n.2 (9th Cir. 1986). While Rule 8(a) does not require detailed factual allegations, "it demands more than an unadorned, the defendant-unlawfully-harmed-me accusation." *Iqbal*, 556 U.S. at 678. A pleading is insufficient if it offers mere "labels and conclusions" or "a formulaic recitation of the elements of a cause of action." *Twombly*, 550 U.S. at 555; *see also Iqbal*, 556 U.S. at 678 ("Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice."). Thus, '[c]onclusory allegations of law and unwarranted inferences are insufficient to defeat a motion to dismiss for failure to state a claim." *Adams v. Johnson*, 355, F.3d 1179, 1183 (9th Cir. 2004) (citations omitted). Moreover, it is inappropriate to assume the plaintiff "can prove facts that it has not alleged or that the defendants have violated the . . . laws in ways that have not been alleged." *Associated Gen. Contractors of Cal., Inc. v. Cal. State Council of Carpenters*, 459 U.S. 519, 526 (1983).

Ultimately, a court may not dismiss a complaint in which the plaintiff has alleged "enough facts to state a claim to relief that is plausible on its face." *Twombly*, 550 U.S. at 570. "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Iqbal*, 556 U.S. at 680. While the plausibility requirement is not akin to a probability requirement, it demands more than "a sheer possibility that a defendant has acted unlawfully." *Id.* at 678. This plausibility inquiry is "a context-specific task that requires the reviewing court to draw on its judicial experience and common sense." *Id.* at 679. Thus, only where a plaintiff fails to "nudge [his or her] claims . . . across the line from conceivable to plausible[,]" is the complaint properly dismissed. *Id.* at 680 (internal quotations omitted).

In ruling on a motion to dismiss, a court may consider only the complaint, any exhibits thereto, and matters which may be judicially noticed pursuant to Federal Rule of Evidence 201. *See Mir v. Little Co. of Mary Hosp.*, 844 F.2d 646, 649 (9th Cir. 1988); *Isuzu Motors Ltd. v. Consumers Union of U.S., Inc.*, 12 F. Supp. 2d 1035, 1042 (C.D. Cal. 1998); *see also Daniels-*

Hall v. Nat'l Educ. Ass'n, 629 F.3d 992, 998 (9th Cir. 2010) (the court need not accept as true allegations that contradict matters properly subject to judicial notice).

If a complaint fails to state a plausible claim, "'[a] district court should grant leave to amend even if no request to amend the pleading was made, unless it determines that the pleading could not possibly be cured by the allegation of other facts.'" *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000) (en banc) (quoting *Doe v. United States*, 58 F.3d 494, 497 (9th Cir. 1995)); *see also Gardner v. Martino*, 563 F.3d 981, 990 (9th Cir. 2009) (finding no abuse of discretion in denying leave to amend when amendment would be futile). Although a district court should freely give leave to amend when justice so requires under Rule 15(a)(2), "the court's discretion to deny such leave is 'particularly broad' where the plaintiff has previously amended its complaint[.]" *Ecological Rights Found. v. Pac. Gas & Elec. Co.*, 713 F.3d 502, 520 (9th Cir. 2013) (quoting *Miller v. Yokohama Tire Corp.*, 358 F.3d 616, 622 (9th Cir. 2004)).

B. Analysis

Defendants move to dismiss Plaintiff's: (1) FRA claim against Singh; (2) § 12945claim against Defendants; (3) UCL claim against Defendants; and (4) request for punitive damages. (ECF No. 9-1 at 8–12.) The Court will address each of these claims and the request for punitive damages in turn.

1. FRA Claim

Plaintiff's third cause of action is a claim for retaliation in violation of the FRA against Defendants. (ECF No. 1 at 28–30). Plaintiff alleges she was entitled to take maternity leave under the FRA but was discriminated against and retaliated against because she exercised that right. (*Id.*)

Defendants contend Plaintiff's FRA claim must be dismissed against Singh because there can be no liability against individuals who do not themselves qualify as employers under the FRA. (ECF No. 9-1 at 8–9.) Plaintiff concedes that Singh should be dismissed from her FRA claim. (ECF No. 11 at 7.)

Accordingly, the Court DISMISSES Plaintiff's FRA claim against Singh without leave to amend.

2. § 12945 Claim

Plaintiff's sixth cause of action against Graham Defendants alleges a violation of § 12945. (ECF No. 1 at 86–88.) Specifically, Plaintiff avers Defendants terminated her employment substantially based on her decision to take maternity leave and discriminated against her because of her pregnancy and related medical conditions by refusing to grant her time off work. (ECF No. 1 at 32–34.)

"Pregnancy discrimination is an unlawful employment practice under provisions of the FEHA that prohibit discrimination on the basis of sex, disability, and pregnancy-related conditions." *Lopez v. La Casa De Las Madres*, 89 Cal. App. 5th 365, 378 (2023). "Discrimination based on the fact that a person is pregnant, has given birth, is breastfeeding, or has a related medical condition is a form of sex discrimination, prohibited by section 12940(a)." *Id.* (citations omitted).

> Section 12945 addresses two distinct protections available to employees with conditions relating to pregnancy. First, employees disabled by such a condition are entitled to pregnancy-disability leave. Specifically, it is unlawful for an employer to refuse to allow an employee disabled by a condition related to pregnancy to take a leave of absence for a reasonable period, not to exceed four months. (§ 12945(a)(1).) And during the disability leave period, it is unlawful for the employer to refuse to maintain insurance coverage for the employee. (§ 12945(a)(2).)
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> Second, section 12945 entitles an employee to accommodation of a condition relating to pregnancy in specified situations. It is unlawful for an employer to refuse to provide a reasonable accommodation for a condition related to pregnancy, whether or not that condition amounts to a disability, if such accommodation is requested by the employee with the advice of the employee's health care provider. (§ 12945(a)(2)(A).) It is also an unlawful employment practice to refuse to accommodate a request temporarily to transfer a pregnant employee to a less strenuous position if the employer has a policy of making such transfers for temporarily disabled employees, or if the temporary transfer is requested with the advice of the employee's physician and such a "transfer can be reasonably accommodated." (§ 12945(a)(3)(B)–(C).)

Lopez, 89 Cal. App. 5th at 378–79.

Defendants contend Plaintiff's § 12945 claim should be dismissed because the "Complaint does not contain any factual allegations to plausibly suggest Plaintiff was disabled by pregnancy, childbirth, or a related medical condition." (ECF No. 9-1 at 9.) In opposition, Plaintiff argues the "Complaint sufficiently pleads that she gave birth via cesarean section, and therefore suffered from disabilities related to her pregnancy and/or childbirth that limited Plaintiff's major life activities." (ECF No. 11 at 8.)

The Court agrees with Defendants and finds Plaintiff has failed to state a claim for pregnancy discrimination under § 12945. Plaintiff does not allege Defendants denied her right to take pregnancy-disability leave — to the contrary, Plaintiff admits she took maternity leave (ECF No. 1 at 23–24).[3] Nor does Plaintiff allege Defendants denied her a reasonable accommodation for a condition related to pregnancy. Instead, Plaintiff simply alleges she took maternity leave, gave birth via Cesarean section, and then Defendants retaliated against her for taking maternity leave. (ECF No. 1 at 33–34.) However, Plaintiff fails to demonstrate such activity is protected under § 12945.

Accordingly, the Court DISMISSES Plaintiff's § 12945 claim with leave to amend. Any amended claim must allege Plaintiff was denied the protections available to employees with conditions relating to pregnancy under § 12945.

3. UCL Claim

Plaintiff's eighth cause of action is a UCL claim against Graham Defendants. (ECF No. 1 at 35–36.) Plaintiff alleges Defendants' discrimination and retaliation based on sex/pregnancy constitutes false, unfair, fraudulent, and deceptive business practices under the UCL. (*Id.*) Plaintiff seeks to enjoin Defendants' purported unlawful conduct under the UCL and "restore to Plaintiff her wrongfully-withheld compensation … ." (*Id.* at 35.)

"Business and Professions Code section 17200 et seq. prohibits unfair competition, including unlawful, unfair, and fraudulent business acts. The UCL covers a wide range of

[3] In her sixth cause of action, Plaintiff does allege that "by refusing to grant her time off work, Defendants interfered with [her] right to take PDL leave." (ECF No. 1 at 33.) However, this allegation is conclusory and overwhelmingly contradicted by Plaintiff's more detailed allegations elsewhere in the Complaint.

conduct." *Korea Supply Co. v. Lockheed Martin Corp.*, 29 Cal. 4th 1134, 1143 (2003) (footnote omitted). "While the scope of conduct covered by the UCL is broad, its remedies are limited." *Id.* (citation omitted). "A UCL action is equitable in nature; damages cannot be recovered." *Id.* (citation omitted). "Prevailing plaintiffs are generally limited to injunctive relief and restitution." *Cel-Tech Commc'ns, Inc. v. Los Angeles Cellular Tel. Co.*, 20 Cal. 4th 163, 179 (1999) (citations omitted). But, "[r]egardless of whether California authorizes its courts to award equitable [relief] under the UCL … when a plain, adequate, and complete remedy exists at law, … federal courts [must] rely on federal equitable principles before allowing equitable [relief] in such circumstances." *Sonner v. Premier Nutrition Corp.*, 971 F.3d 834, 845 (9th Cir. 2020). Under traditional federal equitable principles, a party must demonstrate, among other things, an inadequate remedy at law before obtaining equitable relief. *See, e.g.*, *Beacon Theatres, Inc. v. Westover*, 359 U.S. 500, 506 (1959) ("The basis of injunctive relief in the federal courts has always been irreparable harm and inadequacy of legal remedies.").

Defendants contend Plaintiff's UCL claim should be dismissed because Plaintiff has an adequate remedy at law and because Plaintiff lacks standing to pursue injunctive relief against her former employer. (ECF No. 9-1 at 9–10.) Plaintiff does not specifically address Defendants' arguments in her opposition motion. Instead, Plaintiff argues her UCL claim is "properly pled and viable" because it is predicated on Defendants' discrimination and retaliation based on sex/pregnancy, and injunctive relief is supported by California precedent. (ECF No. 11 at 13.)

The Court agrees with Defendants and finds Plaintiff has failed to state a claim under the UCL. Plaintiff relies heavily on two California cases — *Vaughn v. Tesla, Inc.*, 87 Cal. App. 5th 208 (2023), *reh'g denied* (Jan. 20, 2023), *review denied* (Apr. 12, 2023) and *McGill v. Citibank, N.A.*, 2 Cal. 5th 945 (2017) — for the proposition that she may proceed on her UCL claim. (*See* ECF No. 11 at 12–13.) However, Plaintiff's reliance is misplaced. While California courts may award equitable relief on a UCL claim notwithstanding a plaintiff's adequate remedy at law, federal courts may not. *Sonner*, 971 F.3d at 845.[4] To obtain equitable relief here, Plaintiff must

[4] The Court notes the Ninth Circuit's ruling in *Sonner* was limited to federal courts sitting in diversity jurisdiction. *See Sonner v. Premier Nutrition Corp.*, 49 F.4th 1300, 1302 (9th Cir.

demonstrate she has no adequate remedy at law. *Id.* Plaintiff's Complaint is not just devoid of such allegations, the Complaint expressly seeks compensatory, general, special, exemplary, and punitive damages (i.e., remedies at law). (*See* ECF No. 1 at 36–37.) Thus, Plaintiff has failed to demonstrate she has an inadequate remedy at law and therefore may not proceed on her equitable claim in federal court. *Sonner*, 971 F.3d at 845. But the inquiry does not stop here.

Defendants argue the Court should dismiss Plaintiff's UCL claim without leave to amend because she is no longer employed by Defendants and thus lacks standing to seek injunctive relief. (ECF No. 9-1 at 10–11.) To support their argument, Defendants cite *Walsh v. Nevada Dep't of Hum. Res.*, 471 F.3d 1033 (9th Cir. 2006) and *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338 (2011). (*Id.*)

In both *Walsh* and *Wal-Mart Stores, Inc.*, the plaintiffs sought injunctive relief related to their former employer's allegedly discriminatory employment practices. *Wal-Mart Stores, Inc.*, 564 U.S. at 364–65; *Walsh*, 471 F.3d at 1036–37. The Supreme Court — albeit in *dicta* referencing the lower court's decision to certify a class — and the Ninth Circuit noted the plaintiffs lacked standing to seek such relief because they were no longer employed by the defendants and did not stand to benefit from an injunction prohibiting or mandating certain employment practices. *Wal-Mart Stores, Inc.*, 564 U.S. at 364–65; *Walsh*, 471 F.3d at 1036–37. As a result, the plaintiffs failed to satisfy the redressability requirement for standing to bring a particular claim. *Wal-Mart Stores, Inc.*, 564 U.S. at 364–65; *Walsh*, 471 F.3d at 1036–37.

In the instant case, Plaintiff also seeks "preliminary and permanent injunctions pursuant to [California] Business & Professions Code § 17203, enjoining and restraining Defendants from continuing the unlawful and unfair business practices … and requiring the establishment of

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2022) ("We held that federal courts sitting in diversity must apply federal equitable principles to claims for equitable restitution brought under California law and that, under such principles, dismissal was appropriate because Sonner could not show that she lacked an adequate remedy at law."). Although this matter is before the Court on federal question jurisdiction, the Court sees no reason to depart from the Ninth Circuit's analysis and conclusions of law where the Court is exercising supplemental jurisdiction over state-law claims. Application of the *Sonner* holding is particularly appropriate where, as here, Plaintiff does not directly respond to Defendants' arguments that *Sonner* controls.

appropriate and effective means to prevent future violations … ." (ECF No. 1 at 37.) Like the plaintiffs in *Walsh* and *Wal-Mart Stores, Inc.*, Plaintiff does not stand to benefit from any changes in Defendants' employment practices. Thus, Plaintiff lacks standing to assert her UCL claim in this Court, and any amendment would be futile.

Accordingly, the Court DISMISSES Plaintiff's UCL claim without leave to amend. *See Theme Promotions, Inc. v. News Am. Mktg. FSI*, 546 F.3d 991, 1010 (9th Cir. 2008) (citation omitted) ("[L]eave to amend will not be granted where an amendment would be futile.").

4. Punitive Damages

Finally, Defendants move to dismiss Plaintiff's request for punitive damages. (ECF No. 9-1 at 11–12.) However, "a motion to dismiss is not the proper vehicle to challenge a claim of damages." *Trull v. City of Lodi*, No. 2:23-cv-01177-TLN-CKD, 2024 WL 1344478, at *8 (E.D. Cal. Mar. 29, 2024) (citation omitted); *see also Oppenheimer v. Sw. Airlines Co.*, No. 13-CV-260-IEG BGS, 2013 WL 3149483, at *3 (S.D. Cal. June 17, 2013) ("Because punitive damages are but a remedy, and thus neither constitutes a claim nor pertains to whether any claim has been stated, requests for punitive damages provide no basis for dismissal under Fed. R. Civ. P. 12(b)(6)."); *Monaco v. Liberty Life Assur. Co.*, No. C06-07021 MJJ, 2007 WL 420139, at *6 (N.D. Cal. Feb. 6, 2007) ("[A] complaint is not subject to a motion to dismiss for failure to state a claim under Rule 12(b)(6) because the prayer seeks relief that is not recoverable as a matter of law.").

Accordingly, the Court DENIES Defendants' motion to dismiss Plaintiff's prayer for relief, seeking punitive damages.

IV. CONCLUSION

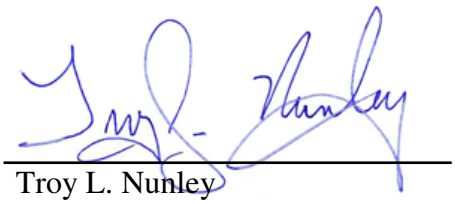
For the foregoing reasons, the Court DENIES Plaintiff's Motion to Remand. (ECF No. 8.) The Court further GRANTS in part and DENIES in part Defendants' Motion to Dismiss and DISMISSES Plaintiff's third cause of action against Singh and eighth cause of action against Defendants *without* leave to amend, and DISMISSES Plaintiff's sixth cause of action against Defendants *with* leave to amend. (ECF No. 9.) In all other respects, the Court DENIES Defendants' Motion to Dismiss. (*Id.*)

Plaintiff may file an amended complaint not later than thirty (30) days after the electronic filing date of this Order. Defendants shall file any responsive pleading not later than twenty-one (21) days from the electronic filing date of Plaintiff's amended complaint.

If Plaintiff opts not to file an amended complaint, this action will proceed on Plaintiff's first, second, third (excluding Singh), fourth, fifth, and seventh causes of action. Defendants shall file an answer not later than twenty-one (21) days from Plaintiff's deadline to file an amended complaint.

IT IS SO ORDERED.

Date: September 24, 2024



Troy L. Nunley
United States District Judge