

UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII

STEVEN HAYES, AUTUMN HAYES,
BRANDON POTTER, JOELLE POTTER,
CHRISTOPHER HERNANDEZ, JILLARIE
HERNANDEZ, JACOB OLSON, SOMMER
OLSON, FAISAL RIZVI, KATIE
RIZVI, STEVEN THOLEN, ANDREA
THOLEN, STEPHANIE WATSON, MORRIS
WATSON, GARY WEBER, SARAH WEBER,
LUCIA LOPEZ, JOSE LOPEZ, CHAD
KELLY, MARVIN NORCROSS, ASHLEY
NORCROSS,

Plaintiffs,

vs.

OHANA MILITARY COMMUNITIES, LLC,
FOREST CITY RESIDENTIAL
MANAGEMENT, INC., DOE
DEFENDANTS 1-10,

Defendants.

CIV. NO. 17-00047 LEK-KJM

ORDER GRANTING THE PLAINTIFFS' MOTIONS FOR REMAND TO STATE COURT

On October 2, 2018, the following cases were stayed
and administratively closed, pending the outcome of Lake, et al.

v. Ohana Military Communities, LLC, et al., CV 16-00555 LEK-KJM

("Lake"):

- 1) Butler, et al. v. Ohana Military Communities, LLC, et al.,
CV 16-00626 LEK-KJM ("Butler");
- 2) Dix, et al. v. Ohana Military Communities, LLC, et al.,
CV 16-00627 LEK-KJM;
- 3) Manaea, et al. v. Ohana Military Communities, LLC, et al.,
CV 16-00628 LEK-KJM;
- 4) Bartlett, et al. v. Ohana Military Communities, LLC, et
al., CV 16-00654 LEK-KJM;

- 5) Torres, et al. v. Ohana Military Communities, LLC, et al., CV 16-00655 LEK-KJM;
- 6) Hayes, et al. v. Ohana Military Communities, LLC, et al., CV 17-00047 LEK-KJM; and
- 7) Pye, et al. v. Ohana Military Communities, LLC, et al., CV 17-00114 (all collectively "Lake-Related Cases").

See, e.g., Butler, Minutes - EO: Court Order Administratively Closing Case, filed 10/2/18 (dkt. no. 28). Lake has been remanded to state court, pursuant to Lake v. Ohana Military Communities, LLC, 14 F.4th 993 (9th Cir. 2021). See Lake, Order Remanding Case to State Court, filed 1/10/22 (dkt. no. 209); id., transmittal letter to Circuit Court (O`ahu First Circuit) from the Clerk of Court, filed 1/25/22 (dkt. no. 210).¹

Further, in another case related to Lake - Ochoa, et al. v. Ohana Military Communities, LLC, et al., CV 16-00629 LEK-KJM ("Ochoa") - this Court rejected Defendants Ohana Military Communities, LLC ("Ohana") and Forest City Residential Management, Inc.'s ("Forrest City" and collectively "Defendants") diversity jurisdiction argument, which was not raised in Lake.² See Ochoa, Order Granting Plaintiffs' Motion for Remand to State Court, filed 3/7/23 (dkt. no. 40) ("Ochoa Remand Order"). Ochoa was remanded to the state court on

¹ After Lake was remanded to state court, the United States Supreme Court denied Defendants petition for a writ of certiorari. See Ohana Military Communities, LLC v. Lake, 142 S. Ct. 2815 (2022).

² Ohana and Forrest City are the defendants in Lake, Ochoa, and the Lake-Relate Cases.

March 22, 2023. See id., transmittal letter to Circuit Court (Oahu First Circuit) from the Clerk of Court, filed 3/22/23 (dkt. no. 41).

On March 13, 2023, the plaintiffs in the Lake-Related Cases filed motions to remand their respective cases to the state court (collectively "Motions"). See Butler, Plaintiffs' Motion for Remand to State Court, filed 3/13/23 (dkt. no. 31) ("Butler Motion"); Dix, Plaintiffs' Motion for Remand to State Court, filed 3/13/23 (dkt. no. 32); Manaea, Plaintiffs' Motion for Remand to State Court, filed 3/13/23 (dkt. no. 33); Bartlett, Plaintiffs' Motion for Remand to State Court, filed 3/13/23 (dkt. no. 34); Torres, Plaintiffs' Motion for Remand to State Court, filed 3/13/23 (dkt. no. 32); Hayes, Plaintiffs' Motion for Remand to State Court, filed 3/13/23 (dkt. no. 30); Pye, Plaintiffs' Motion for Remand to State Court, filed 3/13/23 (dkt. no. 29). Each of the Motions argues the case should be remanded based upon the Ninth Circuit's analysis in Lake and this Court's analysis in the Ochoa Remand Order. See, e.g., Butler Motion at PageID.899.

On March 16, 2023, this Court informed the parties that it was inclined to grant the Motions and ordered that any objections to the inclination be filed within a week. See, e.g., Butler, Minute Order - EO: Court's Inclination to Grant the Plaintiffs' Motions for Remand to State Court, filed 3/16/23

(dkt. no. 30). Defendants filed a substantively identical statement in each of the Lake-Related Cases. See, e.g., Butler, Defendants' Statement of Position Regarding Court's Inclination to Grant the Plaintiffs' Motion for Remand to State Court, filed 3/16/23 (dkt. no. 30) ("Butler Statement"). To preserve their objections for the record, Defendants state they believe federal jurisdiction in the case is appropriate, but they acknowledge the arguments they would make in opposition to the Butler Motion "are not materially distinguishable from" those that they made previously and that were rejected by the Ninth Circuit in Lake and by this Court in the Ochoa Remand Order. Defendants state "further briefing on this matter is not warranted given the prior rulings of the Ninth Circuit and this Court." [Id. at 3.]

The Court finds the Motions suitable for disposition without a hearing pursuant to Rule LR7.1(c) of the Local Rules of Practice for the United States District Court for the District of Hawaii ("Local Rules"). Based upon the Ninth Circuit's analysis in Lake and, for the reasons stated in the Ochoa Remand Order, the Lake-Related Cases must be remanded to the state court.

CONCLUSION

For the foregoing reasons, the plaintiffs' Motions for Remand to State Court, filed in each of the Lake-Related Cases on March 13, 2023, is HEREBY GRANTED. The Clerk's Office is

DIRECTED to reopen this case immediately and to effectuate the remand on **April 12, 2023**, unless Defendants file a timely motion for reconsideration of the instant Order.

IT IS SO ORDERED.

DATED AT HONOLULU, HAWAII, March 28, 2023.



/s/ Leslie E. Kobayashi
Leslie E. Kobayashi
United States District Judge

STEVEN HAYES, ET AL. VS. OHANA MILITARY COMMUNITIES, LLC, ET AL;
CIVIL 17-00047 LEK-KJM; ORDER GRANTING PLAINTIFFS' MOTIONS FOR
REMAND TO STATE COURT