

**ORIGINAL
FILED**

APR 11 2025

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____
DEPUTY CLERK

1 Mark Baker
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2 Davis, CA 95616
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3 234-206-1977
Pro Se

4 UNITED STATES DISTRICT COURT
5
6 EASTERN DISTRICT OF CALIFORNIA

7 MARK BAKER,

8 Plaintiff,

9 vs.

10 ZIPLINE INTERNATIONAL, INC., YOLO

11 LAND & CATTLE COMPANY, INC, YOLO

12 COUNTY, AND DOES 1-20

13 Defendants.
14
15

Case No.: 2:25-cv-01063-DC-CKD

**NOTICE OF MOTION AND MOTION TO
REMAND; MEMORANDUM OF POINTS
OF AUTHORITIES IN SUPPORT
THEREOF**

DATE: MAY 23, 2025

TIME: 10:00AM

COURTROOM: 24, 8TH FLOOR

JUDGE: HON. CAROLYN K. DELANEY

TRIAL DATE: NOT YET SET

COMPLAINT FILED: MARCH 11, 2025

16
17 TO DEFENDANTS ZIPLINE INTERNATIONAL, INC., YOLO LAND & CATTLE
18 CO., A CALIFORNIA LIMITED PARTNERSHIP, YOLO COUNTY, AND THEIR
19 ATTORNEYS OF RECORD:

20 PLEASE TAKE NOTICE THAT on May 23, 2025, at 10:00am, or as soon thereafter as
21 this matter may be heard, in Courtroom 24 via Zoom, Plaintiff Mark Baker will move the court
22 for an order, pursuant to 28 U.S.C. § 1447(c), remanding this action to Yolo County Superior
23 Court County on the grounds that:

1 (1) Plaintiff’s complaint does not raise a separate federal question that is necessary to
2 resolution of any of Plaintiff’s claims;

3 (2) Defendant has not shown that removal is proper;

4 (3) The United States District Court Eastern District of California is already
5 overburdened;

6 (4) Removal from state Yolo County Superior Court to federal Eastern District of
7 California will pose an undue burden on Plaintiff.

8 Plaintiff’s motion for remand is based on this notice of motion and motion and such other
9 and further evidence and argument, both written and oral, as may be presented to the Court
10 before the motion is submitted for decision.

11
12 **MEMORANDUM OF POINTS AND AUTHORITIES**

13 **ARGUMENT**

14 **I. REMOVAL IS NOT PROPER**

15 **A. The Unruh Civil Rights Act Wholly Encompasses the Americans with Disabilities**
16 **Act**

17 The Unruh Civil Rights Act is codified in California Civil Code (“CCC”) Sections
18 51 and 52. CCC § 51(f) states, “A violation of the right of any individual under the
19 federal Americans with Disabilities Act of 1990 (Public Law 101-336) shall also
20 constitute a violation of this section.” Plaintiff’s complaint lists two causes of action.

21 The first cause of action involves the federal Americans with Disabilities Act 42 U.S.C.
22 §§ 1201 et seq. and the second cause of action involves the state California Unruh Civil
23

1 Rights Act, California Civil Code . §§ 51-52. Both laws are discrimination laws, with the
2 state law fully encompassing the federal law.

3 Plaintiff's Unruh claim and ADA claim "derive from a common nucleus of
4 operative fact and are such that a plaintiff would ordinarily be expected to try them in one
5 judicial proceeding," they form part of the 'same case or controversy' for purposes of §
6 1367(a)." [Arroyo v. Rosas citing Trustees of the Constr. Indus. & Laborers Health &
7 Welfare Tr. v. Desert Valley Landscape & Maint., Inc., 333 F.3d 923, 925 (9th Cir.
8 2003)]. Because the Unruh Civil Rights Act includes the entirety of the Americans with
9 Disabilities Act, there is no issue in Plaintiff's claim that is solely a federal issue. Every
10 issue that could be raised in this case will automatically also be a state issue under Unruh.

11 28 U.S.C. §§ 1441 states, "Except as otherwise expressly provided by Act of
12 Congress, any civil action brought in a State court of which the district courts of the
13 United States have **original** jurisdiction, may be removed by the defendant or the
14 defendants, to the district court of the United States for the district and division
15 embracing the place where such action is pending." [emphasis added]. The federal court
16 has original jurisdiction over a standalone ADA claim, but not when the ADA claim is
17 wholly encompassed by a state Unruh claim. In this claim, the state Unruh Civil Rights
18 Act fully encompasses the federal ADA in its entirety. This is not a situation where the
19 state claim and the federal claim are separate, and the federal court has original
20 jurisdiction.

21 The Supreme Court and the Ninth Circuit are clear: "State courts resolve matters
22 of federal law in similar circumstances with no difficulty" *Berg v. Leason*, 32 F.3d 422,
23

1 426 (9th Cir. 1994), *citing Merrell Dow*, 478 U.S. at 808; *Caterpillar Inc. v. Williams*,
2 482 U.S. 386, 393, 107 S. Ct. 2425, 96 L. Ed. 2d 318 (1987).

3 Therefore, removal of this case to federal court is improper.

4
5 **B. All Actions Involve a Single Location in Yolo County, California**

6 This case involves a single location in Yolo County which is owned by Yolo Land
7 & Cattle Company. The Plaintiff lives in Yolo County. The local government entity
8 Yolo County is a defendant in this case. Zipline International has operations globally, but
9 this claim involves only the single location in Yolo County. There is no justification for
10 removing this case to federal court based on diversity. [28 U.S. Code § 1332]

11
12 **C. The Defendant Has the Burden of Demonstrating That Removal Is Proper**

13 The Defendants have the burden of establishing that Plaintiff's action is "founded
14 on a claim or right arising under the Constitution, treaties or laws of the United States."
15 28 U.S.C. § 1441(b); *Ethridge v. Harbor House Restaurant*, 861 F.3d 1389, 1393 (9th
16 Cir. 1988). This is a heavy burden because the removal statute is strictly construed, and
17 any doubt is to be resolved in favor of remand. *Duncan v. Stuetzle*, 76 F.3d 1480, 1485
18 (9th Cir. 1996).

19 Because of the "Congressional purpose to restrict the jurisdiction of the federal
20 courts on removal," *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 108 (1941), the
21 statute is strictly construed, *id.* at 108-09, and federal jurisdiction "must be rejected if
22 there is any doubt as to the right of removal in the first instance." *Gaus v. Miles, Inc.*, 980
23 F.2d 564, 566 (9th Cir. 1992) (citation omitted). [The defendant] . . . has the burden of

1 establishing that removal was proper. *Harris v. Provident Life and Accident Ins. Co.*, 26
2 F.3d 930, 932 (9th Cir. 1994) (quotations and citations omitted).

3 In this claim, the Defendants have provided no justification for removal, and thus
4 the court must reject the removal and favor the remand.

6 **II. THE EASTERN DISTRICT OF CALIFORNIA IS OVERBURDENED**

7 The Eastern District of California website states, “The judges of the Eastern District
8 routinely carry one of the heaviest caseloads in the country. For the last decade the Judicial
9 Conference has recommended adding up to six judges to the Eastern District bench. This
10 continuing crisis, if left unaddressed, will soon result in serious and catastrophic consequences..”

11 The defendants Zipline International and Yolo Land & Cattle Company are
12 represented by Seyfarth Shaw LLP which specializes in Americans with Disabilities Act Title III
13 defense. Seyfarth’s website states, “Seyfarth attorneys know the unique challenges of litigating
14 in the most “plaintiff-friendly” jurisdictions in the country, and routinely use that knowledge to
15 their clients’ advantage.

16 Removing a case that is best heard in state court to an already overburdened federal
17 court, for the sole purpose of gaining a supposed advantage for the defense does not further the
18 interests of either the state or the federal government or the interests of justice.

20 **III. UNDUE BURDEN FOR PLAINTIFF**

21 Plaintiff is a Pro Se litigant. Therefore, when deciding whether to file the discrimination
22 lawsuit in state or federal court, Plaintiff chose Yolo County Superior Court because the
23 courthouse is located close to Plaintiff’s residence and because Plaintiff can file electronically.

1 Plaintiff had previously applied for filing access via PACER for federal cases, but Plaintiff's
2 application was denied. Therefore, removal of the case to the United States District Court
3 Eastern District of California causes Plaintiff to have to make a multi-hour round trip drive to file
4 in person for every filing. This would be a significant burden for Plaintiff as a Pro Se litigant.

5
6 **IV. CONCLUSION**

7 Based on the foregoing, Plaintiff respectfully requests that the court remand the case back
8 to Yolo County Superior Court.

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10 Dated: April 11, 2025

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12 Respectfully Submitted,

13 By: /s/ Mark Baker
14 In Pro Per
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1 Mark Baker
1520 E. Covell Suite B5 - 467
2 Davis, CA 95616
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7 MARK BAKER,

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12 COUNTY, AND DOES 1-20

13 Defendants.
14

Case No.: 2:25-cv-01063-DC-CKD

**DECLARATION OF MARK BAKER IN
SUPPORT OF MOTION TO REMAND**

DATE: MAY 23, 2025
TIME: 10:00AM
COURTROOM: 24, 8TH FLOOR
JUDGE: HON. CAROLYN K. DELANEY

TRIAL DATE: NOT YET SET
COMPLAINT FILED: MARCH 11, 2025

15
16 I, Mark Baker, declare as follows:

- 17 1. I am a Pro Se Plaintiff and have personal knowledge of the facts stated in this
18 declaration, except as to those facts stated on information and belief. As to facts stated
19 on information and belief, I believe them to be true. I could and would testify to these
20 facts if called upon to do so.
- 21 2. On March 5, 2025, I filed a complaint with Yolo County Superior Court titled *Mark*
22 *Baker v. Zipline International Inc., et al*, Case No. CV2025-0686, listing defendants
23 Zipline International, Inc., Yolo Land and Cattle Company, Inc., and Yolo County.

1 The complaint alleges violations of state discrimination law, the Unruh Civil Rights
2 Act, and federal discrimination law, the Americans with Disabilities Act (“ADA”).

3 3. I am a Pro Se litigant. Therefore, when I decided whether to file the Zipline
4 discrimination lawsuit in state or federal court, I chose Yolo County Superior Court
5 because the courthouse is located close to my residence and because I can file
6 electronically. I had previously applied for filing access via PACER for cases with the
7 Eastern District of California, but my application was denied. Therefore, with this case
8 being removed from Yolo County Superior Court in Woodland, California to United
9 States District Court Eastern District of California in Sacramento, California, I now
10 need to make a multi-hour round trip drive to file in person for every filing that I make
11 for this case. This will be a significant burden on time and expense for me.

12
13 I declare under penalty of perjury of the laws of the State of California that the
14 foregoing is true and correct. Executed on this 11th day of April 2025.

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17 Mark Baker
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2 Davis, CA 95616
mbaker@softlights.org
3 234-206-1977
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4 UNITED STATES DISTRICT COURT
5 EASTERN DISTRICT OF CALIFORNIA
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7 MARK BAKER,

8 Plaintiff,

9 vs.

10 ZIPLINE INTERNATIONAL, INC., YOLO
11 LAND & CATTLE COMPANY, INC, YOLO
12 COUNTY, AND DOES 1-20

13 Defendants.
14

Case No.: 2:25-cv-01063-DC-CKD

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION TO REMAND**

DATE: MAY 23, 2025
TIME: 10:00AM
COURTROOM: 24, 8TH FLOOR
JUDGE: HON. CAROLYN K. DELANEY

TRIAL DATE: NOT YET SET
COMPLAINT FILED: MARCH 11, 2025

15
16 **[PROPOSED] ORDER**

17 Having reviewed and considered the Motion and the pleadings in support thereof, and
18 finding good cause therefor, the Court rules as follows:

19 **IT IS HEREBY ORDERED:**

- 20 1. The motion is **GRANTED**;
21 2. This action is hereby remanded to Yolo County Superior Court

22 Date: _____
23

/s/ _____

Hon. Carolyn K. Delaney

1 Mark Baker
1520 E. Covell Suite B5 - 467
2 Davis, CA 95616
mbaker@softlights.org
3 234-206-1977
Pro Se

4 UNITED STATES DISTRICT COURT
5 EASTERN DISTRICT OF CALIFORNIA
6

7 MARK BAKER,

8 Plaintiff,

9 vs.

10 ZIPLINE INTERNATIONAL, INC., YOLO
11 LAND & CATTLE COMPANY, INC, YOLO
12 COUNTY, AND DOES 1-20
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14

Case No.: 2:25-cv-01063-DC-CKD

**PLAINTIFF OBJECTION TO
DEFENDANT *EX PARTE* APPLICATION
TO EXTEND TIME FOR DEFENDANTS
TO RESPOND TO INITIAL COMPLAINT**

COMPLAINT FILED: MARCH 5, 2025
CURRENT RESPONSE DATE: APRIL 16,
2025
New Response Date: May 14, 2025

15 On March 5, 2025, Plaintiff filed a complaint with Yolo County Superior Court titled
16 *Mark Baker v. Zipline International Inc., et al*, Case No. CV2025-0686, listing defendants
17 Zipline International, Inc., Yolo Land and Cattle Company, Inc., and Yolo County. The
18 complaint alleges violations of state discrimination law, the Unruh Civil Rights Act, and federal
19 discrimination law, the Americans with Disabilities Act (“ADA”).

20 On April 9, 2025, Defendants filed a Removal action to remove the case from Yolo
21 County Superior Court to United States District Court Eastern District of California.

22 On top of the Defendants’ Removal action, which will unnecessarily burden both the
23 Eastern District of California Court and Plaintiff, the Defendants also request a 28-day time

1 extension for filing their initial response due to having the case removed from Yolo County
2 Superior Court to Eastern District of California federal court for their advantage.

3 Zipline was served on March 7, 2025. Yolo County was served on March 10, 2025. Due
4 to invalid information in the Secretary of State records, Yolo Land & Cattle Company was not
5 initially servable by ABC Legal. On March 17, 2025, Seyfarth notified Plaintiff via email that
6 Seyfarth represented both Zipline and Yolo Land & Cattle Company and stated, “No, you would
7 not need to still personally serve the summons/complaint on Yolo Land and Cattle Company.”

8 On March 18, 2025, Plaintiff electronically served Zipline and Yolo Land & Cattle
9 Company with an AMENDMENT TO COMPLAINT – INCORRECT NAME, changing “Yolo
10 Land & Cattle Company, Inc.” to “Yolo Land & Cattle Co., A California Limited Partnership.”,
11 along with a FORM POS-015 NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL
12 for signature by Zipline and Yolo Land & Cattle Company’s counsel Seyfarth.

13 Therefore, all three defendants were served the initial claim by March 17, 2025, and have
14 30 days to file a response by April 16, 2025. Rather than use the time between March 17, 2025,
15 and April 16, 2025, to prepare and file a response in Yolo County Superior Court, Seyfarth has
16 instead chosen to file a Removal to federal court and then request a 28-day extension to file a
17 Motion to Dismiss. This venue-shopping action and unnecessary delay of the case is an abuse of
18 the system and serves no purpose other than for Seyfarth to try to gain an advantage for their
19 clients while unduly burdening both the Eastern District of California Court and Plaintiff.

20 Therefore, Plaintiff respectfully requests that the court deny Defendants’ Ex Parte request
21 for 28-day time extension.

22
23 Dated: April 11, 2025

Respectfully Submitted,

By: /s/ Mark Baker
In Pro Per

PROOF OF SERVICE

Mark Baker v. Zipline International, Inc., et al.

United States District Court - Eastern District of California

Case Number: 2:25-cv-01063-DC-CKD

At the time of service, I was over 18 years of age. My residence or business address is
1520 E. Covell Blvd. Suite B5 - 467, Davis, CA 95616.

On April 11, 2025, I electronically served a true copy of the following documents
described as:

- 1. NOTICE OF MOTION AND MOTION TO REMAND; MEMORANDUM OF POINTS OF AUTHORITIES IN SUPPORT THEREOF**
- 2. DECLARATION OF MARK BAKER IN SUPPORT OF MOTION TO REMAND**
- 3. [PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION TO REMAND**
- 4. PLAINTIFF OBJECTION TO DEFENDANT EX PARTE APPLICATION TO EXTEND TIME FOR DEFENDANTS TO RESPOND TO INITIAL COMPLAINT**

on the parties in this action as follows:

Ashley Arnett, Associate
Seyfarth Shaw, LLP
aarnett@seyfarth.com
601 South Figueroa Street Suite 3300
Los Angeles, CA 90017

Eric May, Senior Deputy County Counsel
Yolo County
eric.may@yolocounty.gov
625 Court Street
Woodland, CA 95695

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document to
be sent from the e-mail address mbaker@softlights.org to the persons at the email addresses

listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 11, 2025.

A handwritten signature in cursive script that reads "Mark Baker".

Mark Baker