

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 1 2026

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JORDAN OROZCO MADERO, on behalf
of themselves and all others similarly
situated; ESTEBAN OROSCO,

Plaintiffs - Appellants,

v.

MCLANE FOODSERVICE, INC., a Texas
Corporation;

Defendant - Appellee.

No. 25-1341

D.C. No.

5:24-cv-00073-KK-DTB

MEMORANDUM*

JORDAN OROZCO MADERO;
ESTEBAN OROSCO,

Plaintiffs - Appellees,

v.

MCLANE FOODSERVICE, INC.,

Defendant - Appellant.

No. 25-1798

D.C. No.

5:24-cv-00073-KK-DTB

Appeal from the United States District Court
for the Central District of California
Kenly Kiya Kato, District Judge, Presiding

Argued and Submitted July 7, 2026
Pasadena, California

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

Before: RAWLINSON, SANCHEZ, and TUNG, Circuit Judges.

Plaintiffs-Appellants-Cross-Appellees Jordan Orozco Madero and Esteban Orosco (Plaintiffs) appeal the district court’s grant of partial summary judgment in favor of Defendant-Appellee-Cross-Appellant McLane Foodservice, Inc. (McLane). The district court determined that Plaintiffs were exempted from the overtime requirements of the Fair Labor Standards Act (FLSA) based on the Motor Carrier Act (MCA) exemption. McLane cross-appeals the district court’s order dismissing the case without prejudice for lack of diversity jurisdiction after the district court dismissed Plaintiffs’ FLSA claim, and only state-law claims remained.

1. “Summary judgment is appropriate if, when viewing the evidence in the light most favorable to the nonmoving party, there is no genuine dispute as to any material fact. . . .” *Western Towboat Co. v. Vigor Marine, LLC*, 85 F.4th 919, 925 (9th Cir. 2023) (citation and internal quotation marks omitted).

The parties agree that the MCA exempts employees who engage in interstate commerce by transporting people “between” two states. 49 U.S.C. § 13501(1)(A); *see also* 29 U.S.C. § 213(b)(1). Nor do the parties dispute that “[w]hether transportation is interstate or intrastate is determined by the essential character of the commerce, *manifested by [the] shipper’s fixed and persisting transportation intent at the time of the shipment*, and is ascertained from all of the facts and

circumstances surrounding the transportation.” *Klitzke v. Steiner Corp.*, 110 F.3d 1465, 1469 (9th Cir. 1997) (citation omitted) (emphasis in the original). The parties dispute whether the Plaintiffs-employees engaged in interstate commerce.

Viewed in the light most favorable to Plaintiffs, the answer is yes, the Plaintiffs-employees engaged in interstate commerce. The evidence reflects that McLane operated under national distribution agreements by using a predictive model to supply its chain restaurant customers in accordance with anticipated demands based on historical aggregate sales information. Using this predictive model, out-of-state suppliers ship goods intended to fulfill preexisting customer demand, rather than to replenish McLane’s warehouse inventory for later delivery to unspecified customers. Like the goods in *Klitzke*, McLane’s products were ordered and shipped pursuant to customer agreements that contemplated ultimate delivery to the designated restaurant. *See* 110 F.3d at 1470. As in *Klitzke*, the shipments that Plaintiffs transported represented a “practical continuity of movement of the goods until they reached the customers for whom they were intended.” *Id.* (citation and alterations omitted).

Plaintiffs’ bare assertions in opposition failed to raise a genuine issue of material fact. *See Western Towboat Co.*, 85 F.4th at 925. Thus, the district court did not err in granting summary judgment in favor of McLane.

2. Diversity jurisdiction attaches when “the suit [is] between citizens of

different states, and the amount in controversy . . . exceed[s] \$75,000.” *Tesla Motors, Inc. v. Balan*, 134 F.4th 558, 560 (9th Cir. 2025) (citation and internal quotation marks omitted). “In a diversity case originally filed in federal court, the sum claimed in the complaint controls if the claim is apparently made in good faith. It must appear *to a legal certainty* that the claim is really for less than the jurisdictional amount to justify dismissal. . . .” *Maine Cmty. Health Options v. Albertsons Companies, Inc.*, 993 F.3d 720, 723 (9th Cir. 2021) (citations and internal quotation marks omitted) (emphasis in the original).

The district court found that the amount in controversy did not exceed \$75,000. The district court relied on Plaintiffs’ projected recovery amount of \$21,081 for Jordan Madero and \$24,525 for Esteban Orosco. The district court found McLane’s projected estimates of the amount in controversy— \$98,563.63 for Madero and \$102,983.63 for Orosco, plus \$68,500 attorneys’ fees to be unreasonable. Specifically, the district court determined that McLane’s “estimated damages and fees” were “wildly speculative.” On de novo review, we determine that McLane’s estimate of the amount in controversy was reasonable and based on “possible liability.” *Greene v. Harley-Davidson, Inc.*, 965 F.3d 767, 772 (9th Cir. 2020). McLane’s calculation predicated on a 100% violation rate was not unreasonable because it was based on Plaintiffs’ operative complaint. *See Harris v. KM Indus., Inc.*, 980 F.3d 694, 701 (9th Cir. 2020) (“A defendant may rely on

reasonable assumptions to prove that it has met the statutory threshold. . . .”)

(citations omitted). McLane also reasonably calculated attorneys’ fees using the lodestar method. *See Pennsylvania v. Delaware Valley Citizens’ Council for Clean Air*, 478 U.S. 546, 565 (1986) (establishing a “strong presumption that the lodestar figure . . . represents a reasonable fee”) (internal quotation marks omitted).

Accordingly, we reverse the district court’s determination that it lacked diversity jurisdiction. *See Crum v. Circus Circus Enter.*, 231 F.3d 1129, 1132 (9th Cir. 2000) ([W]e conclude that it does not appear to a legal certainty that [Plaintiff’s] claim is really for less than the jurisdictional amount . . .”).¹

AFFIRMED in part and REVERSED in part. Each party shall bear its costs on appeal.

¹ Because we conclude that the district court had diversity jurisdiction, we need not decide whether the district court had an independent basis for jurisdiction under the Class Action Fairness Act. *See Backcountry Against Dumps v. Fed. Aviation Admin.*, 77 F.4th 1260, 1264 n.2 (9th Cir. 2023).