

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Robert Mena v. Dos Amigos Cantina HB, LP, et al.

Mena · No. CV 25-285-DMG (ADSx) · Decided February 21, 2025

SUMMARY

The United States District Court for the Central District of California ordered the plaintiff to show cause why the court should exercise supplemental jurisdiction over state-law disability-access and negligence claims. The order discusses California’s heightened pleading requirements and high-frequency litigant provisions for Unruh Act claims, as well as considerations of fairness and comity under 28 U.S.C. § 1367. Plaintiff was directed to identify the statutory damages sought and provide declarations addressing high-frequency litigant status by March 3, 2025.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Dolly M. Gee, Chief United States District Judge
JURISDICTION	United States District Court for the Central District of California
DECIDED	February 21, 2025
DOCKET	CV 25-285-DMG (ADSx)
DISPOSITION	other
PROCEDURAL POSTURE	The court issued an order to show cause why it should not decline to exercise supplemental jurisdiction over the plaintiff's state-law claims.
STANDARD OF REVIEW	Abuse of discretion governs a district court's decision whether to exercise supplemental jurisdiction under 28 U.S.C. § 1367(c).
PRECEDENTIAL VALUE	unpublished
PARTIES	Robert Mena v. Dos Amigos Cantina HB, LP, et al.

TOPICS

- subject matter jurisdiction
- civil procedure
- ada / disability
- public accommodations discrimination

PRACTICE AREAS

- civil procedure
- disability rights
- supplemental jurisdiction

QUESTIONS PRESENTED

1. Whether the court should exercise supplemental jurisdiction over the plaintiff's Unruh Act, California Disabled Persons Act, California Health and Safety Code, and negligence claims.
2. Whether plaintiff must provide information and declarations concerning the amount of statutory damages sought and whether plaintiff qualifies as a California high-frequency litigant before the court decides whether to exercise supplemental jurisdiction.

HOLDINGS

1. The court determined that it appeared to have supplemental jurisdiction under 28 U.S.C. § 1367(a) over the Unruh Act, California Disabled Persons Act, California Health and Safety Code, and negligence claims, but did not make a final decision whether to exercise that jurisdiction.
2. Plaintiff was ordered to file a written response by March 3, 2025 explaining why the court should exercise supplemental jurisdiction, identifying the amount of statutory damages sought, and providing declarations under penalty of perjury addressing whether plaintiff qualifies as a high-frequency litigant.

KEY QUOTATIONS

“when deciding whether to exercise supplemental jurisdiction, ‘a federal court should consider and weigh in each case, and at every stage of the litigation, the values of judicial economy, convenience, fairness, and comity.’” (at 1)

“Failure to timely or adequately respond to this Order to Show Cause may, without further warning, result in the Court declining to exercise supplemental jurisdiction over the Unruh Act, California Disabled Persons Act, California Health & Safety Code, and negligence claims, and the dismissal of any such claims pursuant to 28 U.S.C. section 1367(c).” (at 2)

FACTUAL BACKGROUND

The complaint alleges an ADA violation involving disability access and seeks injunctive relief. It also asserts state-law claims for damages under the Unruh Civil Rights Act, the California Disabled Persons Act, California Health and Safety Code provisions, and negligence. The order indicates that the state-law claims concern alleged construction-access barriers and may implicate California's heightened pleading requirements and high-frequency-litigant provisions.

PROCEDURAL HISTORY

Plaintiff filed a federal ADA claim for injunctive relief and state-law claims seeking damages under the Unruh Civil Rights Act, the California Disabled Persons Act, California Health and Safety Code provisions, and negligence. The district court determined that it appeared to have supplemental jurisdiction over the state-law claims and ordered plaintiff to explain why the court should exercise that jurisdiction. The court deferred any jurisdictional dismissal pending plaintiff's written response and supporting declarations.

DISPOSITION

CASES CITED

- City of Chicago v. International College of Surgeons, 522 U.S. 156, 173, 118 S. Ct. 523, 534 (1997)
- Carnegie-Mellon University v. Cohill, 484 U.S. 343, 350 (1988)
- Schutza v. Cuddeback, 262 F. Supp. 3d 1025, 1031 (S.D. Cal. 2017)
- Arroyo v. Rosas, 19 F.4th 1202, 1211 (9th Cir. 2021)

OPINION

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES—GENERAL Case No. CV 25-285-DMG (ADSx) Date February 21, 2025 Title Robert Mena v. Dos Amigos Cantina HB, LP, et al. Page 1 of 2 Present: The Honorable DOLLY M. GEE, CHIEF UNITED STATES DISTRICT JUDGE DEREK DAVIS NOT REPORTED Deputy Clerk Court Reporter Attorneys Present for Plaintiff(s) Attorneys Present for Defendant(s) None Present None Present Proceedings: IN CHAMBERS— ORDER TO SHOW CAUSE WHY THE COURT SHOULD NOT DECLINE TO EXERCISE SUPPLEMENTAL JURISDICTION OVER PLAINTIFF’S STATE LAW CLAIMS The Complaint filed in this action asserts a claim for injunctive relief arising out of an alleged violation of the Americans with Disabilities Act (“ADA”), 42 U.S.C. sections 12010- 12213, and a claim for damages pursuant to California’s Unruh Civil Rights Act (“Unruh Act”), Cal. Civ.

Code sections 51-53. It appears that the Court has supplemental jurisdiction over the Unruh Act, California Disabled Persons Act, California Health & Safety Code, and negligence claims. See 28 U.S.C. section 1367(a).

The supplemental jurisdiction statute “reflects the understanding that, when deciding whether to exercise supplemental jurisdiction, ‘a federal court should consider and weigh in each case, and at every stage of the litigation, the values of judicial economy, convenience, fairness, and comity.’” City of Chicago v. Int’l Coll. of Surgeons, 522 U.S. 156, 173, 118 S. Ct.

523, 534 (1997) (emphasis added) (quoting Carnegie-Mellon Univ. v. Cohill, 484 U.S. 343, 350 (1988)). In 2012, California adopted a heightened pleading standard for lawsuits brought under the Unruh Act to combat the influx of baseless claims and vexatious litigation in the disability access litigation sphere. Cal. Civ. Code § 55.52(a)(1).

The stricter pleading standard requires a plaintiff bringing construction-access claims to file a verified complaint alleging specific facts concerning the plaintiff’s claim, including the specific barriers encountered or how the plaintiff was deterred and each date on which the plaintiff encountered each barrier or was deterred. See Cal. Civ. Proc. Code § 425.50(a).

California also imposed a “high-frequency litigant fee” in 2015 in response to the “special and unique circumstances” presented by certain plaintiffs and law firms filing an outsized number of Unruh Act lawsuits. Cal. Gov’t Code § 70616.5.

In recognition of California’s efforts to reduce the abuse of California’s disability access laws, some district courts within the state have determined that the interests of fairness and comity, UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES—GENERAL Case No. CV 25-285-DMG (ADSx) Date February 21, 2025 Title Robert Mena v. Dos Amigos Cantina HB, LP, et al. Page 2 of 2 counsel against exercising supplemental jurisdiction over construction-access claims brought under the Unruh Act.

See, e.g., *Schutza v. Cuddeback*, 262 F. Supp. 3d 1025, 1031 (S.D. Cal. 2017) (“[T]he Court finds it would be improper to allow Plaintiff [a high frequency litigant] to use federal court as an end-around to California’s pleading requirements.

Therefore, as a matter of comity, and in deference to California’s substantial interest in discouraging unverified disability discrimination claims, the Court declines supplemental jurisdiction over Plaintiff’s Unruh Act claim.”); see also *Arroyo v. Rosas*, 19 F.4th 1202, 1211 (9th Cir. 2021) (“The district court’s principal justification for declining supplemental jurisdiction was that the distinctive configuration of California-law rules... would be rendered ineffectual if the district court were to exercise supplemental jurisdiction.

We hold that the district court did not abuse its discretion in concluding that, for this reason, this case presents ‘exceptional circumstances’ within the meaning of § 1367(c)(4).”). In light of the foregoing, the Court orders Plaintiff to show cause in writing why the Court should exercise supplemental jurisdiction over the Unruh Act, California Disabled Persons Act, California Health & Safety Code, and negligence claims.

See 28 U.S.C. § 1367(c). In responding to this Order to Show Cause, Plaintiff shall identify the amount of statutory damages Plaintiff seeks to recover. Plaintiff and his counsel shall also support their responses to the Order to Show Cause with declarations, signed under penalty of perjury, providing all facts necessary for the Court to determine if they satisfy the definition of a “high-frequency litigant” as provided by California Civil Procedure Code sections 425.55(b)(1) & (2).

Plaintiff shall file a Response to this Order to Show Cause by March 3, 2025. Failure to timely or adequately respond to this Order to Show Cause may, without further warning, result in the Court declining to exercise supplemental jurisdiction over the Unruh Act, California Disabled Persons Act, California Health & Safety Code, and negligence claims, and the dismissal of any such claims pursuant to 28 U.S.C. section 1367(c).

IT IS SO ORDERED.

