

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Sepulveda v. Guo

Sepulveda · No. 22-cv-04208-HSG · Decided March 13, 2023

OPINION

Sepulveda v. Guo

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 RICHARD SEPULVEDA, Case No. 22-cv-04208-HSG 8 Plaintiff,

ORDER GRANTING MOTION TO

9 v. DISMISS UNRUH ACT CLAIM

10 WEI ZHONG GUO, et al., Re: Dkt. No. 20 Defendants. 11 12 13 Pending before the Court is
Defendants’ motion to dismiss.¹ Dkt. No. 20. The Court finds 14 this matter appropriate for
disposition without oral argument and the matter is deemed submitted. 15 See Civil L.R. 7-1(b).
For the reasons detailed below, the Court GRANTS the motion.

16 I. BACKGROUND

17 Plaintiff, who uses a walker, alleges that he visited Defendants’ restaurant four times and 18
encountered architectural barriers that interfered with his access to the business. See generally 19
Dkt. No. 4 (“FAC”).² Specifically, Plaintiff identified access issues with the sidewalk to the front
20 entrance, the dining seating, the path to the restroom, and the space inside the restroom. Id. 21
¶¶ 3–4. Plaintiff brings causes of action for violations of Title III of the Americans with 22
Disabilities Act (“ADA”), the California Unruh Civil Rights Act, and other state laws. Id. 23 1
Defendant Wei Zhong Guo filed the initial motion to dismiss. The remaining defendants have 24
since joined the motion. See Dkt. No. 30. 25 2 The Court DENIES Defendants’ requests for
judicial notice, filed after the reply. “Once a reply is filed, no additional memoranda, papers or
letters may be filed without prior Court approval.” 26 Civ. L.R. 7-3(d). Although counsel “may
bring to the Court’s attention a relevant judicial opinion published after the date the . . . reply was
filed,” the filings do not comply with the Rule’s 27 requirements. See id. (explaining that counsel
may file a “Statement of Recent Decision” that 1 ¶¶ 18–71. Defendants ask the Court to decline to
exercise supplemental jurisdiction over the state 2 law claims. See Dkt. No. 20 at 3.

3 II. LEGAL STANDARD

4 When a federal court has original jurisdiction over a claim, the court “shall have 5 supplemental
jurisdiction over all other claims that are so related to claims in the action within 6 such original

jurisdiction that they form part of the same case or controversy.” 28 U.S.C. 7 § 1367(a). State law claims are part of the “same case or controversy” as a federal claim when 8 they “derive from a common nucleus of operative fact and are such that a plaintiff would 9 ordinarily be expected to try them in one judicial proceeding.” *Trustees of Constr. Indus. & 10 Laborers Health & Welfare Tr. v. Desert Valley Landscape & Maint., Inc.*, 333 F.3d 923, 925 (9th 11 Cir. 2003). However, a court may decline to exercise supplemental jurisdiction in “exceptional 12 circumstances” where there are “compelling reasons” for doing so. 28 U.S.C. § 1367(c)(4). A 13 Court invoking this exception must (1) “articulate why the circumstances of the case are 14 exceptional” under § 1367(c)(4) and (2) consider the Gibbs values of “economy, convenience, 15 fairness, and comity.” *Arroyo v. Rosas*, 19 F.4th 1202, 1210–11 (9th Cir. 2021) (quoting *City of 16 Chicago v. Int’l Coll. of Surgeons*, 522 U.S. 156, 172–73 (1997)).

17 III. DISCUSSION

18 Relying on the Ninth Circuit’s reasoning in *Arroyo*, Defendants move to dismiss 19 Plaintiff’s state claims. Defendants argue that California’s interest in enforcing its modified 20 disability discrimination laws qualifies as an “exceptional circumstance” for declining jurisdiction. 21 Dkt. No. 20 at 5–6. The Court agrees. 22 Under California law, “high-frequency litigants” who file Unruh Act claims are required to 23 plead additional facts and pay an additional filing fee. See *Vo v. Choi*, 49 F.4th 1167, 1169–70 24 (9th Cir. 2022). In *Arroyo*, the Ninth Circuit held that litigants evading these requirements by 25 filing in federal court constituted an “extraordinary circumstance” that threatened to unsettle 26 federal-state comity. 19 F.4th at 1213. The court reasoned that retaining supplemental 27 jurisdiction over ADA-based Unruh Act claims would “substantially thwart California’s carefully 1 crafted reforms” and “deprive state courts of their critical role in effectuating the policies 2 underlying those reforms.” *Id.* 3 Here, Plaintiff’s case reflects the “exceptional circumstance” defined in *Arroyo*: by filing 4 an ADA-based Unruh Act claim and related state claims in federal court, he has evaded the 5 “critical limitations” on damages under the Unruh Act. See *id.* Plaintiff concedes that he is a 6 “high-frequency litigant” who would be subject to California’s procedural standards. See FAC 7 ¶ 70. And unlike in *Arroyo*, where interests in judicial economy, convenience, comity, and 8 fairness supported retaining jurisdiction because the district court had fully adjudicated both the 9 federal and state claims, this case is still in its early stages. See *Arroyo*, 19 F.4th at 1205. Thus, 10 the Gibbs values support declining to exercise supplemental jurisdiction in this case. See, e.g., 11 *Garcia v. Maciel*, No. 21-CV-03743-JCS, 2022 WL 395316, at *5 (N.D. Cal. Feb. 9, 2022); 12 *Whitaker v. Ben Bridge-Jeweler, Inc.*, No. 21-cv-00808-EJD, 2022 WL 824232, at *3 (N.D. Cal. 13 March 18, 2022); *Whitaker v. Alice & Olivia California Holdings LLC*, No. 21-cv-08106-VC, 14 2022 WL 1135088, at *1 (N.D. Cal. April 18, 2022); *Johnson v. Constantia Cap. Ltd.*, No. 22-15 CV-01456-RS, 2022 WL 3925290, at *2 (N.D. Cal. Aug. 30, 2022). 16 Plaintiff argues that he is not as litigious as other high-frequency litigants and that he has 17 met California’s heightened pleading requirements. See Dkt. No. 25. ¶¶ 16, 17. Plaintiff also 18 contends that he is not

motivated by quick cash settlements, the purported concern underlying 19 California's reforms, and seeks to meaningfully address the accessibility barriers. *Id.* ¶¶ 18, 22. 20 The Ninth Circuit has already rejected these arguments. In *Vo*, the court concluded that forcing 21 district courts to determine these "threshold" issues would deprive state courts of their role in 22 enforcing the California reforms and "run afoul of the Gibbs values—especially comity." See 49 23 F.4th at 1173–74. 24 Therefore, the Court finds that this case presents an exceptional circumstance under 25 1367(c)(4), and that the values of economy, convenience, comity, and fairness weigh in favor of 26 declining jurisdiction over Plaintiff's state claims. 27

1 IV. CONCLUSION

2 Defendants' motion to dismiss Plaintiff's Unruh Act claim and other related state claims is 3 GRANTED, and those claims are dismissed without prejudice to refile in state court. The Court 4 SETS a telephonic case management conference for April 4, 2023 at 2:00 p.m. The Court further 5 DIRECTS the parties to submit a joint case management statement by March 28, 2023. All 6 || counsel shall use the following dial-in information to access the call: 7 Dial-in: 888-808-6929 8 Passcode: 6064255 9 For call clarity, parties shall NOT use speaker phone or earpieces for these calls, and where 10 at all possible, parties shall use landlines. All attorneys appearing for a telephonic case 11 management conference are required to dial in at least 15 minutes before the hearing to check in 12 || with the CRD. 13 IT IS SO ORDERED. 14 |) Dated: 3/13/2023
Aepurred 3, 5 HAYWOOD S, GILLIAM, JR. nited States District Judge 18 19 20 21 22 23 24 25
26 27 28