

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Aghanazari v. American Medical Response Ambulance Service, Inc.

Aghanazari · No. 2:22-cv-00630-TLN-AC · Decided March 27, 2025

SUMMARY

The United States District Court for the Eastern District of California granted American Medical Response Ambulance Service, Inc.’s motion to dismiss claims arising from alleged conduct by a paramedic during an in-flight medical emergency. The court held that the claims were subject to California’s Medical Injury Compensation Reform Act statute of limitations and were time-barred because the action was filed more than one year after the alleged injury. The dismissal was without leave to amend, and the case was closed.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Troy L. Nunley
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 27, 2025
DOCKET	2:22-cv-00630-TLN-AC
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss plaintiffs' Second Amended Complaint as time-barred and for failure to state sufficient claims. The court granted the motion without leave to amend.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court tests the legal sufficiency of the complaint, accepts well-pleaded factual allegations as true, draws reasonable inferences in plaintiffs' favor, and determines whether the complaint states a facially plausible claim for relief. Legal conclusions and conclusory allegations are not presumed true.
PRECEDENTIAL VALUE	unpublished district court order; persuasive value only

TOPICS

- statute of limitations
- motions to dismiss
- professional negligence
- medical malpractice
- civil procedure

PRACTICE AREAS

civil procedure

statute of limitations

medical malpractice

professional negligence

torts

QUESTIONS PRESENTED

1. Whether California or Nevada substantive law governed the statute-of-limitations issue.
2. Whether the claims against AMR and DOE 2 arose from professional negligence by a health care provider and therefore fell within MICRA and California Code of Civil Procedure section 340.5.
3. Whether plaintiffs' claims were time-barred because the injuries were discovered on the date of the alleged incident.
4. Whether plaintiffs should be granted leave to amend.

HOLDINGS

1. There was no material conflict between California and Nevada law because the analogous statutes of limitations would produce the same result; therefore, the court ended its governmental-interest choice-of-law analysis at the first step.
2. The claims against AMR and DOE 2 were subject to MICRA because DOE 2 was alleged to be a paramedic, a health care provider under California Code of Civil Procedure section 340.5, and the gravamen of the claims was professional negligence in rendering medical assistance.
3. Plaintiffs' claims were barred by California Code of Civil Procedure section 340.5 because the alleged injuries were discovered on September 24, 2019, but plaintiffs did not file their original complaint until September 3, 2021.
4. Leave to amend was denied because plaintiffs could not cure the statute-of-limitations defect through additional factual allegations or by changing the description of DOE 2.

KEY QUOTATIONS

“Courts must look past the labels Plaintiffs use and examine the nature or gravamen of the claim.” (at 5)

“Because the Court finds “other facts consistent with the challenged pleading could not possibly cure the deficiency” discussed above, the Court GRANTS AMR’s Motion to Dismiss without leave to amend.” (at 8)

FACTUAL BACKGROUND

On September 24, 2019, plaintiffs were traveling on a Southwest Airlines flight that diverted to Las Vegas after Aghanazari began experiencing heart attack symptoms. A paramedic employed by AMR allegedly treated Aghanazari roughly and violently while placing him on a gurney, including grabbing and jerking him. Aghanazari was transported to a Las Vegas hospital and diagnosed with an arterial blockage, while Moghadam alleged that she suffered emotional distress and trauma after observing the paramedic's conduct.

PROCEDURAL HISTORY

Plaintiffs filed the action in Sacramento Superior Court on September 3, 2021. Southwest Airlines removed the action to the Eastern District of California based on diversity jurisdiction, and plaintiffs later filed a Second Amended Complaint asserting assault, battery, negligence, negligent infliction of emotional distress, and intentional infliction of emotional distress claims against AMR and DOE 2. Southwest was dismissed on October 16, 2023. AMR moved to dismiss, and the court granted the motion without leave to amend because the claims were barred by California's MICRA statute of limitations.

DISPOSITION

dismissed

CASES CITED

- Navarro v. Block, 250 F.3d 729, 732 (9th Cir. 2001)
- Ashcroft v. Iqbal, 556 U.S. 662, 677-80 (2009)
- Bell Atlantic v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Swierkiewicz v. Sorema N.A., 534 U.S. 506, 512 (2002)
- Cruz v. Beto, 405 U.S. 319, 322 (1972)
- Retail Clerks International Ass'n v. Schermerhorn, 373 U.S. 746, 753 n.6 (1963)
- U.S. ex rel. Chunie v. Ringrose, 788 F.2d 638, 643 n.2 (9th Cir. 1986)
- Adams v. Johnson, 355 F.3d 1179, 1183 (9th Cir. 2004)
- Associated General Contractors of California, Inc. v. California State Council of Carpenters, 459 U.S. 519, 526 (1983)
- Lopez v. Smith, 203 F.3d 1122, 1130 (9th Cir. 2000) (en banc)
- Doe v. United States, 58 F.3d 494, 497 (9th Cir. 1995)
- Gardner v. Martino, 563 F.3d 981, 990 (9th Cir. 2009)
- Ecological Rights Foundation v. Pacific Gas & Electric Co., 713 F.3d 502, 520 (9th Cir. 2013)
- Miller v. Yokohama Tire Corp., 358 F.3d 616, 622 (9th Cir. 2004)
- Atlantic Marine Construction Co. v. United States District Court for the Western District of Texas, 571 U.S. 49, 65 (2013)
- McCann v. Foster Wheeler LLC, 48 Cal. 4th 68, 87 (2010)
- Gerson v. Logan River Academy, 20 F.4th 1263, 1270 (10th Cir. 2021)
- EVGA Corp. v. B & H Foto & Electronics Corp., No. 19-CV-02230-JLS-ADS, 2020 WL 5028321, at *4 (C.D. Cal. June 22, 2020)
- Flores v. Presbyterian Intercommunity Hospital, 63 Cal. 4th 75, 79, 369 P.3d 229, 230 (2016)
- Canister v. Emergency Ambulance Service, 160 Cal. App. 4th 388, 404-06 (2008)
- Smith v. Ben Bennett, Inc., 133 Cal. App. 4th 1507, 1514 (2005)
- Larson v. UHS of Rancho Springs, Inc., 230 Cal. App. 4th 336, 347, 351, 354 (2014), as modified (Oct. 2, 2014)
- Sanchez v. South Hoover Hospital, 18 Cal. 3d 93, 101 (1976)

- Telesaurus VPC, LLC v. Power, 623 F.3d 998, 1003 (9th Cir. 2010)

OPINION

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA
9 10 MOHAMMAD AGHANAZARI and No. 2:22-cv-00630-TLN-AC KEVAN DARYABEGHI
MOGHADAM, 11 Plaintiffs, 12 ORDER v. 13 AMERICAN MEDICAL RESPONSE 14
AMBULANCE SERVICE, INC., 15 Defendant. 16 17 18 19 This matter is before the Court on
Defendant American Medical Response Ambulance 20 Service, Inc.'s ("AMR") Motion to
Dismiss.

(ECF No. 35.) Plaintiffs Mohammad Aghanazari 21 ("Aghanazari") and Kevan Daryabeghi
Moghadam ("Moghadam") (collectively, "Plaintiffs") 22 filed an opposition. (ECF No. 36.) AMR
filed a reply. (ECF No. 37.) For the reasons set forth 23 below, the Court GRANTS AMR's
motion. 24 /// 25 /// 26 /// 27 /// 28 1 I. FACTUAL AND PROCEDURAL BACKGROUND 2 On
September 24, 2019, Plaintiffs were traveling from Sacramento, California to Phoenix, 3 Arizona
aboard Southwest Airlines Flight 865.

(ECF No. 22 at 5.) During the flight, Aghanazari 4 began experiencing heart attack symptoms.
(Id.) Due to Aghanazari's symptoms, the aircraft 5 diverted to Las Vegas and made an emergency
landing at McCarran International Airport in 6 Paradise, Nevada. (Id.)

After landing the aircraft, Southwest Airlines called for paramedics to 7 come on board and assist
Aghanazari. (Id.) Aghanazari alleges Defendant DOE 2 ("DOE 2"), 8 who was employed by AMR
at the time, is the paramedic who interacted directly with 9 Aghanazari on the Southwest aircraft.
(Id.) 10 When DOE 2 boarded the Southwest aircraft to assist Aghanazari, Plaintiffs allege DOE 2
11 was "very angry and surly" and "began yelling at [] Aghanazari for no reason at all." (Id.)

DOE 12 2 then treated Aghanazari "very roughly and violently" by "grabbing [him] by the back of
the 13 neck and left shoulder, and violently jerking and pulling him around to place [him] onto the
14 gurney[.]" (Id. at 5–6.) A passenger — who was a medical doctor — then told DOE 2 to "take
it 15 easy," but DOE 2 responded by "angrily" shouting "don't interfere!" (Id. at 6.)

16 Aghanazari was subsequently transported to Desert Springs Hospital in Las Vegas, 17 Nevada,
and was diagnosed with a blockage of an artery to his heart. (Id.) Moghadam, 18 Aghanazari's
wife, alleges she suffered "extreme emotional distress and mental trauma when she 19 observed
the negligent and outrageous conduct of DOE 2 with respect to her husband, 20 Aghanazari." (Id.
at 5–6.)

21 On September 3, 2021, Plaintiffs filed the instant action in Sacramento Superior Court. 22
(ECF No. 1-2 at 3–8.) Defendant Southwest Airlines Co. ("Southwest")1 then removed the action
23 to this Court based on diversity under 28 U.S.C. § 1332. (ECF No. 1.) Plaintiffs subsequently
24 filed a Second Amended Complaint ("SAC"), alleging various intentional tort claims.

(ECF No. 25 22) The following claims remain pending against AMR and DOE 2: (1) assault; (2) battery; (3) 26 negligence; (4) negligent infliction of emotional distress; and (5) intentional infliction of 27 28 1 Southwest was dismissed from the instant case on October 16, 2023. (ECF No. 28.) 1 emotional distress. (Id. at 4–11.) AMR now moves to dismiss these claims.

(ECF No. 35.) 2 II. STANDARD OF LAW 3 A motion to dismiss for failure to state a claim upon which relief can be granted under 4 Federal Rule of Civil Procedure (“Rule”) 12(b)(6) tests the legal sufficiency of a complaint. 5 *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001). Rule 8(a) requires that a pleading contain 6 “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed.

R. 7 Civ. P. 8(a); see also *Ashcroft v. Iqbal*, 556 U.S. 662, 677–78 (2009). Under notice pleading in 8 federal court, the complaint must “give the defendant fair notice of what the... claim is and the 9 grounds upon which it rests.” *Bell Atlantic v. Twombly*, 550 U.S. 544, 555 (2007) (internal 10 citation and quotations omitted). “This simplified notice pleading standard relies on liberal 11 discovery rules and summary judgment motions to define disputed facts and issues and to dispose 12 of unmeritorious claims.” *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 512 (2002).

13 On a motion to dismiss, the factual allegations of the complaint must be accepted as true. 14 *Cruz v. Beto*, 405 U.S. 319, 322 (1972). A court must give the plaintiff the benefit of every 15 reasonable inference to be drawn from the “well-pleaded” allegations of the complaint. *Retail 16 Clerks Int’l Ass’n v. Schermerhorn*, 373 U.S. 746, 753 n.6 (1963). A plaintiff need not allege 17 “‘specific facts’ beyond those necessary to state his claim and the grounds showing entitlement to 18 relief.” *Twombly*, 550 U.S. at 570 (internal citation omitted).

19 Nevertheless, a court “need not assume the truth of legal conclusions cast in the form of 20 factual allegations.” *U.S. ex rel. Chunie v. Ringrose*, 788 F.2d 638, 643 n.2 (9th Cir. 1986). 21 While Rule 8(a) does not require detailed factual allegations, “it demands more than an 22 unadorned, the defendant-unlawfully-harmed-me accusation.” *Iqbal*, 556 U.S. at 678.

A 23 pleading is insufficient if it offers mere “labels and conclusions” or “a formulaic recitation of the 24 elements of a cause of action.” *Twombly*, 550 U.S. at 555; see also *Iqbal*, 556 U.S. at 678 25 (“Threadbare recitals of the elements of a cause of action, supported by mere conclusory 26 statements, do not suffice.”).

Thus, “[c]onclusory allegations of law and unwarranted inferences 27 are insufficient to defeat a motion to dismiss” for failure to state a claim. *Adams v. Johnson*, 355 28 F.3d 1179, 1183 (9th Cir. 2004) (citations omitted).

Moreover, it is inappropriate to assume the 1 plaintiff “can prove facts that it has not alleged or that the defendants have violated the... laws 2 in ways that have not been alleged.” *Associated Gen. Contractors of Cal., Inc. v. Cal. State 3 Council of Carpenters*, 459 U.S. 519, 526 (1983). 4

Ultimately, a court may not dismiss a complaint in which the plaintiff has alleged “enough 5 facts to state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. “A claim 6 has facial plausibility when the plaintiff pleads factual content that allows the court to draw the 7 reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 8 680.

While the plausibility requirement is not akin to a probability requirement, it demands more 9 than “a sheer possibility that a defendant has acted unlawfully.” *Id.* at 678. This plausibility 10 inquiry is “a context-specific task that requires the reviewing court to draw on its judicial 11 experience and common sense.” *Id.* at 679.

Thus, only where a plaintiff fails to “nudge [his or 12 her] claims... across the line from conceivable to plausible[,]” is the complaint properly 13 dismissed. *Id.* at 680 (internal quotations omitted). 14 If a complaint fails to state a plausible claim, “[a] district court should grant leave to 15 amend even if no request to amend the pleading was made, unless it determines that the pleading 16 could not possibly be cured by the allegation of other facts.” *Lopez v. Smith*, 203 F.3d 1122, 17 1130 (9th Cir.

2000) (en banc) (quoting *Doe v. United States*, 58 F.3d 494, 497 (9th Cir. 1995)); 18 see also *Gardner v. Martino*, 563 F.3d 981, 990 (9th Cir. 2009) (finding no abuse of discretion in 19 denying leave to amend when amendment would be futile).

Although a district court should 20 freely give leave to amend when justice so requires under Rule 15(a)(2), “the court’s discretion to 21 deny such leave is ‘particularly broad’ where the plaintiff has previously amended its complaint.” 22 *Ecological Rights Found. v. Pac. Gas & Elec. Co.*, 713 F.3d 502, 520 (9th Cir. 2013) (quoting 23 *Miller v. Yokohama Tire Corp.*, 358 F.3d 616, 622 (9th Cir.

2004)). 24 III. ANALYSIS 25 AMR moves to dismiss this action based on two separate arguments. First, AMR argues 26 Plaintiffs’ claims are time-barred. (ECF No. 35.) In the alternative, AMR contends Plaintiffs fail 27 to allege sufficient facts. (*Id.*)

Because the Court concludes Plaintiffs’ claims are barred by the 28 statute of limitations, it does not address the sufficiency of the allegations. 1 A. Statute of Limitations 2 At the outset, AMR argues the gravamen of Plaintiffs’ claims rests on DOE 2’s status as a 3 health care provider and his alleged professional misconduct. (ECF No. 35 at 9–13.) According 4 to AMR, this means the statute of limitations in the Medical Injury Compensation Reform Act 5 (“MICRA”) applies as set forth in Cal. Civ.

Proc. Code § 340.5 (“§ 340.5”). (*Id.* at 11–13.) In 6 opposition, Plaintiffs do not dispute AMR’s argument regarding the gravamen of the claims, but 7 instead argues that California substantive law should not apply. (ECF No. 36 at 3.)

The Court begins by addressing whether California law applies before turning to whether MICRA should apply in this case and if so, whether § 340.5 bars Plaintiffs' claims. i. Choice of Law In opposition to AMR's motion to dismiss, Plaintiffs argue this Court should apply Nevada substantive law rather than California substantive law. (ECF No. 36 at 3–6.)

Plaintiffs do not specify which Nevada law should apply instead. (Id.) To the extent Plaintiffs are attempting to raise a choice of law argument, the Court finds this argument unavailing. As a federal court sitting in diversity, this Court must apply California's choice of law rules. *Atl. Marine Const. Co. v. U.S. Dist. Ct. for W. Dist. of Texas*, 571 U.S. 49, 65 (2013) (internal citation omitted).

California applies the "governmental interest" test to choice of law issues. *McCann v. Foster Wheeler LLC*, 48 Cal. 4th 68, 87 (2010) (noting "the earlier methodology for resolving choice-of-law issues has been replaced in this state by the governmental interest mode of analysis"); *Gerson v. Logan River Acad.*, 20 F.4th 1263, 1270 (10th Cir. 2021) (examining how California applies the governmental interest test to resolve conflicts of law issues arising from tort claims).

This test involves a three-step inquiry which begins with examining whether the laws differ between the two relevant jurisdictions. *Id.* (internal citations omitted). Here, there appears to be no material difference between California's statute of limitations under § 340.5 and Nevada's analogous statute. See Nev. Rev. Stat. Ann. § 41A.097 ("[A]n action for injury... against a provider of health care may not be commenced more than 3 years after the date of injury or 1 year after the plaintiff discovers or through the use of reasonable diligence should have discovered the injury, whichever occurs first[.]").

Therefore, as the Court explains further below, because Plaintiffs' claims would be barred under the statute of limitations under either California or Nevada law, there is no true conflict. As such, the Court begins and ends its choice of law analysis at step one. Cf. *EVGA Corp. v. B & H Foto & Elecs. Corp.*, No. 19-CV- 5 02230-JLS-ADS, 2020 WL 5028321, at *4 (C.D.

Cal. June 22, 2020) (similarly ending the choice of law analysis at step one). ii. MICRA Applies to Plaintiffs' Claims MICRA applies to professional negligence actions against health care providers. *Flores v. Presbyterian Intercommunity Hosp.*, 63 Cal. 4th 75, 79, 369 P.3d 229, 230 (2016).

Therefore, as a threshold matter, the Court must determine: (1) whether DOE is a health care provider as defined under MICRA; and (2) whether, as a whole, this action constitutes a professional negligence action.

The Court addresses these questions in turn. First, relevant here, emergency medical technicians and paramedics are health care providers as defined under § 340.5. See *Canister v.*

Emergency Ambulance Service, 160 Cal. 15 App. 4th 388, 404–06 (2008). While Plaintiffs attempt to argue otherwise, it is clear from the 16 allegations that DOE 2 falls within this category and is subject to MICRA.

In the SAC, Plaintiffs 17 allege that after Southwest “called for paramedics” to assist Aghanazari, DOE 2 — a “paramedic” 18 — responded. (ECF No. 22 ¶ 10.) Plaintiffs argue they referred to DOE 2 as “paramedic” 19 merely as a “shorthand and a convenient way of referring to him” but never alleged DOE was the 20 type of medical professional subject to MICRA’s statute of limitations.² (ECF No. 36 at 6–8.)

21 The Court finds this argument unavailing and does not alter the conclusion that DOE 2 is a health 22 care provider as defined under MICRA. 23 Second, where, as here, a claim against a health care provider is based on a “legal theory 24 other than medical malpractice, the courts must determine whether it is nevertheless based on the 25 2 Plaintiffs also request leave to amend the SAC to identify DOE 2 as an “individual.” 26 (ECF No. 36 at 6–8.)

However, Plaintiffs cannot avoid MICRA’s application through artful 27 pleading. Cf. *Larson v. UHS of Rancho Springs, Inc.*, 230 Cal. App. 4th 336, 347 (2014), as modified (Oct. 2, 2014) (noting “Courts must look past the labels Plaintiffs use”).

Therefore, this 28 request is DENIED. 1 ‘professional negligence’ of the health care provider so as to trigger MICRA.” *Smith v. Ben 2 Bennett, Inc.*, 133 Cal. App. 4th 1507, 1514 (2005); see also *Larson*, 230 Cal. App. 4th at 347 3 (internal citations omitted) (noting “Courts must look past the labels Plaintiffs use and examine 4 the nature or gravamen of the claim[.]”).

Professional negligence is defined as: (1) “a negligent 5 act or omission to act by a health care provider in the rendering of professional services;” (2) 6 “which act or omission is the proximate cause of injury or wrongful death;” (3) “provided that 7 such services are within the scope of services for which the provider is licensed;” and (4) “which 8 are not within any restriction imposed by the licensing agency or licensed hospital.” Cal. Civ.

9 Proc. Code § 340.5(2). 10 AMR relies on *Larson*, to support the argument that MICRA applies. (ECF No. 35 at 9 11 (citing 230 Cal. App. 4th at 347).) In *Larson*, the plaintiff alleged an anesthesiologist injured him 12 by “forcefully grabbing and twisting his arm” during a pre-surgical checkup and by “prying open 13 his mouth” and “violently punching, lifting, and pushing” his face while placing a mask to 14 administer anesthesia.

230 Cal. App. 4th at 351. Based on these allegations, the plaintiff brought 15 claims for battery and intentional infliction of emotional distress. *Id.* 16 The California Court of Appeal found the underlying intentional tort claims were based on 17 professional negligence, because they were “simply claims [that the anesthesiologist] performed 18 his professional services in an

unnecessarily harsh and forceful manner, which amount[ed] to a 19 claim [the anesthesiologist] failed to meet the applicable standard of care in rendering his 20 services.” Id. at 351.

21 Here, Plaintiffs allege DOE 2 was a paramedic who “treated” Aghanazari “very roughly 22 and violently by grabbing [] Aghanazari by the back of the neck and left shoulder, and violently 23 jerking and pulling him around to place [him] onto the gurney.” (ECF No. 22 at 5–6.)

As in 24 Larson, the Court finds Plaintiffs’ claims are based on DOE 2’s professional negligence, because 25 they stem from DOE 2’s failure to meet the applicable standard of care when rendering aid to 26 Aghanazari. Consequently, all of Plaintiffs’ claims fall under MICRA and are subject to the 27 statute of limitations set forth in § 340.5. 28 /// 1 iii. Plaintiffs’ Claims are Time-Barred under MICRA 2 Having established MICRA applies, the Court next examines whether MICRA’s statute of 3 limitations bars Plaintiffs’ claims.

Under MICRA, “professional negligence actions against 4 health care providers must be brought within ‘three years after the date of injury or one year after 5 the plaintiff discovers, or through the use of reasonable diligence should have discovered, the 6 injury, whichever occurs first.’” Flores v. Presbyterian Intercommunity Hosp., 63 Cal. 4th 75, 79 7 (2016) (quoting Cal. Civ.

P. Code § 340.5(2)). The statute begins to run “when the plaintiff has 8 notice or information of circumstances to put a reasonable person on inquiry, or has the 9 opportunity to obtain knowledge from sources open to his investigation.” Sanchez v. S. Hoover 10 Hosp., 18 Cal. 3d 93, 101 (1976) (citations and quotations omitted, emphasis in original). 11 According to AMR, the statute began to run at the date of the alleged incident on 12 September 24, 2019, and expired on September 24, 2020.

(ECF No. 35 at 12–13; ECF No. 38 at 13 4.) Because Plaintiffs filed their original Complaint on September 3, 2021 — nearly two years 14 after the alleged incident — AMR argues Plaintiffs’ claims are time-barred. The Court agrees. 15 Plaintiffs provides no argument to dispute their injuries were discovered on the date of the alleged 16 incident.

Moreover, upon examination of the SAC, the Court finds the factual allegations support 17 this conclusion. For example, Plaintiffs allege “Moghadam suffered extreme emotional distress 18 and mental trauma when she observed” DOE 2’s conduct. (ECF No. 22 at 6 (emphasis added).) 19 Accordingly, the Court finds the statute of limitations clock began to run on September 24, 2019 20 — the date of the alleged incident.

Because Plaintiffs filed their Complaint more than a year after 21 the date of injury, the Court finds Plaintiffs’ claims time-barred by § 340.5’s statute of limitations 22 and ends its analysis there. Further, because the Court finds “other facts consistent with the 23 challenged pleading could not possibly cure the deficiency” discussed above, the Court GRANTS 24 AMR’s Motion to Dismiss without leave to amend.

Telesaurus VPC, LLC v. Power, 623 F.3d 25 998, 1003 (9th Cir. 2010) (internal citation omitted); see also Larson, 230 Cal. App. 4th at 354 26 (finding trial court did not abuse its discretion in denying leave to amend). 27 IV. CONCLUSION 28 For the foregoing reasons, the Court GRANTS AMR's Motion to Dismiss (ECF No. 35) 1 | without leave to amend.

The Clerk of Court is directed to CLOSE this case. 2 IT IS SO ORDERED. 3 | Date: March 26, 2025 4 5 7 TROY L. NUNLEY 3 CHIEF UNITED STATES DISTRICT JUDGE 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28