

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Wilt v. Pfizer, Inc.

Wilt · No. 2:24-cv-2058-DJC-JDP (PS) · Decided April 23, 2025

SUMMARY

The court grants plaintiff leave to proceed in forma pauperis but dismisses his complaint against Pfizer, Inc. with leave to amend. The order concludes that plaintiff cannot sue on behalf of the public, lacks a private right of action under the FTC Act, fails to establish federal-question jurisdiction or state-law claims, and must file an amended complaint or notice of voluntary dismissal within thirty days.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 23, 2025
DOCKET	2:24-cv-2058-DJC-JDP (PS)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Pro se plaintiff brought a civil rights and state-law consumer-protection action against Pfizer, Inc. and moved to proceed in forma pauperis. The court screened the complaint under 28 U.S.C. § 1915(e), granted in forma pauperis status, dismissed the complaint with leave to amend, and gave plaintiff thirty days to amend or voluntarily dismiss.
STANDARD OF REVIEW	The court screened the in forma pauperis complaint under 28 U.S.C. § 1915(e), accepting well-pleaded allegations for purposes of assessing plausibility and applying the pleading standards under Federal Rules of Civil Procedure 8(a)(2) and 9(b).
PRECEDENTIAL VALUE	unpublished
PARTIES	David Wilt v. Pfizer, Inc.

TOPICS

- subject matter jurisdiction
- section 1983
- consumer protection
- pleadings
- civil procedure

PRACTICE AREAS

civil procedure

consumer protection

civil rights

constitutional law

QUESTIONS PRESENTED

1. Whether the complaint stated a cognizable claim under 42 U.S.C. § 1983 against Pfizer, a private corporation, and plausibly alleged a violation of federal or constitutional rights.
2. Whether the Federal Trade Commission Act provides plaintiff with a private right of action.
3. Whether plaintiff adequately pleaded claims under the California Consumer Legal Remedies Act, California false-advertising law, and California Business and Professions Code § 17500.5.
4. Whether the complaint adequately invoked federal subject matter jurisdiction.

HOLDINGS

1. The complaint failed to state a § 1983 claim because plaintiff did not allege that Pfizer acted under color of state law and did not plausibly allege a violation of constitutional or other federal rights.
2. The Federal Trade Commission Act does not provide a private right of action; only the Federal Trade Commission has standing to enforce the Act.
3. Plaintiff failed to state a CLRA claim because he did not allege reliance on Pfizer's misrepresentations in purchasing goods or services or economic injury resulting from such a purchase.
4. Plaintiff failed to state a claim under California's false-advertising law because he did not allege that he entered into a transaction, relied on the advertisements, or lost money or property as a result.
5. Section 17500.5 did not apply because plaintiff did not allege an unadvertised restriction on the quantity of an article advertised for sale or a refusal to sell at the advertised price.

KEY QUOTATIONS

“Since Pfizer is not a proper defendant and plaintiff’s state law claims are insufficiently alleged, I will dismiss plaintiff’s complaint with leave to amend.” (at 1)

“Plaintiff cannot bring claims on behalf of the public.” (at 3)

“In addition, plaintiff cannot state a claim under the Federal Trade Commission Act because there exists no private right of action.” (at 3)

“The complaint is dismissed for the reasons stated above. I will allow plaintiff a chance to amend his complaint before recommending that this action be dismissed.” (at 4)

FACTUAL BACKGROUND

Plaintiff alleged that Pfizer publicly represented that its COVID-19 vaccine was 95% effective against infection and disseminated other allegedly misleading information concerning durability, transmission, and protection against variants. He claimed that these representations distorted his and the public's vaccination risk-benefit analysis and alleged that he or others might have chosen an alternative vaccine or no vaccination had the truth

been known. The complaint did not allege that plaintiff relied on the representations in purchasing goods or services, lost money or property, or that Pfizer acted under color of state law.

PROCEDURAL HISTORY

Plaintiff filed an original complaint alleging that Pfizer misrepresented the efficacy and performance of its COVID-19 vaccine and asserted claims under 42 U.S.C. § 1983, the Federal Trade Commission Act, and several California statutes. On screening, the court concluded that Pfizer was not a proper § 1983 defendant, that the complaint did not plausibly allege a federal constitutional or other federal-rights violation, that the FTC Act provides no private right of action, and that the California claims were inadequately pleaded. The complaint was dismissed with leave to amend; no final dismissal of the action was entered.

DISPOSITION

dismissed

CASES CITED

- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Kobold v. Good Samaritan Reg'l Med. Ctr., 832 F.3d 1024, 1038 (9th Cir. 2016)
- Nagrampa v. MailCoups, Inc., 469 F.3d 1257, 1264 n.2 (9th Cir. 2006) (en banc)
- Haines v. Kerner, 404 U.S. 519, 520 (1972) (per curiam)
- Hayes v. Idaho Corr. Ctr., 849 F.3d 1204, 1208 (9th Cir. 2017)
- Bruns v. Nat'l Credit Union Admin., 122 F.3d 1251, 1257 (9th Cir. 1997)
- Ivey v. Bd. of Regents, 673 F.2d 266, 268 (9th Cir. 1982)
- Simon v. Hartford Life, Inc., 546 F.3d 661, 664 (9th Cir. 2008)
- Dreisbach v. Murphy, 658 F.2d 720, 730 (9th Cir. 1981)
- Kerr v. Am. Home Mortg. Serv'g, Inc., No. 10-cv-1612-BEN-AJB, 2010 WL 3743879, at *3 (S.D. Cal. Sept. 22, 2010)
- Herron v. Best Buy Co. Inc., 924 F. Supp. 2d 1161, 1170 (E.D. Cal. 2013)
- Sateriale v. R.J. Reynolds Tobacco Co., 697 F.3d 777, 793 (9th Cir. 2012)
- Laster v. T-Mobile USA, Inc., 407 F. Supp. 2d 1181, 1194 (S.D. Cal. 2005), aff'd, 252 F. App'x 777 (9th Cir. 2007)
- Lacey v. Maricopa Cnty., 693 F.3d 896, 907 n.1 (9th Cir. 2012) (en banc)