UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WASHINGTON

Anthony Stalker v. Continental Service Plan Inc.

Stalker · No. No. 2:25-CV-00089-SAB · Decided April 20, 2026

OPINION

Apr 20, 2026 SEAN F. MCAVOY, CLERK UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WASHINGTON ANTHONY STALKER, on behalf of himself and all others similarly situated, No. 2:25-CV-00089-SAB Plaintiff, v. CONTINENTAL SERVICE PLAN INC, a ORDER GRANTING MOTION New Jersey corporation, TO DISMISS Defendants. Before the Court is Defendant’s Motion to Dismiss Plaintiff’s Second Amended Complaint, ECF No. 38.

The motion was heard without oral argument. Plaintiff is represented by Christopher Hogue, Shayne Sutherland, and Brian Cameron. Defendant is represented by Connor Gordon, Daniel Harkins, Geoffrey Godwin, Meredith Theilbahr, and Thomas Lloyd. Background In 2023, Plaintiff purchased a 2023 Jeep Grand Cherokee from Dishman Dodge, a motor vehicle dealership located in Spokane.

In conjunction with the sale of the vehicle, Plaintiff also purchased a “Preferred Tire Care” vehicle service contract (VSC) from Defendant. Plaintiff did not initial the specific sections of the VSC that included consumer disclosures required by Wash. Rev. Code § 48.110.075(2)(e). Plaintiff subsequently filed a class action lawsuit, alleging that Defendant violated Washington’s Consumer Protection Act (CPA) and was unjustly enriched by the sale of its VSCs.

On April 18, 2025, Defendants moved to dismiss Plaintiff’s complaint, arguing that Plaintiff failed to plausibly allege an injury and causation under the CPA, as well as unjust enrichment. The Court agreed and dismissed the complaint with leave to amend. Plaintiff filed an Amended Complaint on September 25, 2025, dismissing co-defendant Continental Insurance Company, followed by a Second Amended Complaint on November 13, 2025.

In his Second Amended Complaint, Plaintiff asserts he was deprived of the opportunity to review and know of his rights because he did not initial the § 48.110.075(2)(e) disclosures. Plaintiff alleges that but for Defendant’s failure to require him to initial the disclosures, he would have had the opportunity to know of rights such as a right to cancel the VSC within 60 days for free.

Plaintiff also 15 asserts Defendant was unjustly enriched by accepting payment for a VSC that 16 allegedly violated the CPA. 17 Defendant now asks the Court to dismiss the Second Amended Complaint 18 for failure to state a claim upon which relief can be granted. 19 Motion Standard 20 Fed. R. Civ P. 12(b)(6) allows a party to move to dismiss a complaint for 21 failing to state a claim upon which relief can be granted.

To give fair notice and 22 allow a defendant to effectively defend itself, a plaintiff must allege “enough facts 23 to state a claim to relief that is plausible on its face.” Bell Atl. Corp. v. Twombly, 24 550 U.S. 544, 570 (2007). A claim is plausible on its face when “the plaintiff 25 pleads factual content that allows the court to draw the reasonable inference that 26 the defendant is liable for the misconduct alleged.” Ashcroft v. Iqbal, 556 U.S. 662, 27 678 (2009).

Dismissal may be based on either a lack of a cognizable legal theory or 28 the absence of sufficient facts. Shroyer v. New Cingular Wireless Servs., Inc., 622 1 F.3d 1035, 1041 (9th Cir. 2010). 2 When evaluating a Rule 12(b)(6) motion, a court must “presume all factual 3 allegations of the complaint [are] true and draw all reasonable inferences in favor 4 of the non-moving party.” Usher v. City of Los Angeles, 828 F.2d 556, 561 (9th 5 Cir.

1987). However, the court is not required to accept conclusory allegations as 6 true or to accept any unreasonable inferences. In re Gilead Scis. Sec. Litig., 536 7 F.3d 1049, 1057 (9th Cir. 2008). The Court is also not bound to accept as true 8 allegations that contradict matters that are properly exhibited. Id. at 1055. 9 Legal Framework 10 The Washington Legislature enacted the Service Contracts and Protection 11 Product Guarantees Act, Wash. Rev. Code 48.110, et seq., with to address, “risks 12 that contract obligators will close or otherwise be unable to fulfill their contract 13 obligations that could result in unnecessary and preventable losses to citizens of 14 this state.” Wash. Rev. Code § 48.110.010.

Section 48.110.075 applies to Vehicle 15 Service Contracts (VCS) and states that a service contract must contain “a 16 conspicuous statement that has been initialed by the service contract holder and 17 discloses” six specific disclosures including a contract holder’s right to return a 18 contract. Wash. Rev. Code § 48.110.075(2)(e). 19 A violation of § 48.110.075 is a violation of the Consumer Protection Act 20 (CPA). “Any service contract holder or protection product guarantee holder injured 21 as a result of a violation of a provision of this chapter shall be entitled to maintain 22 an action pursuant to chapter 19.86 RCW…” § 48.110.140.

23 To state a private claim under the CPA, Plaintiff must allege (1) an unfair or 24 deceptive act or practice, (2) occurring in trade or commerce, (3) affecting the 25 public interest, (4) injury to a person’s business or property, and (5) causation. 26 Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co., 105 Wash. 2d 778 27 (1986). 28 1 The first two elements may be established by showing that the alleged act 2 constitutes a per se unfair trade practice.

Hangman Ridge, 105 Wash.2d at 786. A 3 per se unfair trade practice exists when the defendant has violated a statute that has 4 been declared by the legislature to constitute an unfair or deceptive act in trade or 5 commerce. Id. The public interest element may also be satisfied per se 6 by “showing that a statute has been violated which contains a specific legislative 7 declaration of public interest impact.” Id. 8 Under the fourth element of the CPA, “business” refers to a commercial for- 9 profit enterprise or occupation.

Ambach v. French, 167 Wash.2d 167, 172 (2009). 10 “Property” encompasses one’s right to possess, use, or enjoy a determinate thing. 11 Id. The CPA does not require that a property injury be a quantifiable loss, and 12 injury can be minimal or temporary. Frias v. Asset Foreclosure Servs., Inc., 181 13 Wash. 2d 412, 431 (2014). 14 To satisfy the CPA’s fifth element, a plaintiff must show that their injury 15 would not have happened but for the defendant’s unfair or deceptive practice.

16 Schnall v. AT&T Wireless Servs., Inc., 171 Wash. 2d 260, 278, (2011). 17 Unjust enrichment is a method of recovering the value of a benefit given by 18 a plaintiff and retained by a defendant when no contractual relationship exists 19 between the parties and yet “notions of fairness and justice require it.” Young v. 20 Young, 164 Wash.2d 477, 484 (2008).

To state a claim for unjust enrichment, 21 Plaintiff must allege three elements: (1) Plaintiff conferred a benefit on Defendant; 22 (2) Defendant had knowledge or appreciation of the benefit, and (3) Defendant’s 23 accepting or retaining the benefit without the payment of its value is inequitable 24 under the circumstances of the case. Id. 25 Analysis 26 Plaintiff’s Second Amended Complaint fails to plausibly allege the fourth 27 and fifth elements of the CPA and the third element of an unjust enrichment claim.

28 The Court has previously held that an informational injury alone does not 1 satisfy the CPA’s injury requirement. Plaintiff’s allegations that he was deprived of 2 the ability to know the terms of the contract, without a tangible deprivation of 3 something more, is insufficient to state a claim under the CPA. 4 Regarding the fifth CPA element, Plaintiff offers no facts explaining how his 5 lack of initialing the § 48.110.075(2)(e) disclosures caused him harm.

Nor does 6 Plaintiff allege that he did not read the disclosures, was unaware of them, or that he 7 would have taken different actions had he known of them. Plaintiff’s allegations of 8 causation are conclusory and therefore do not meet the requirements of Iqbal and 9 Twombly. 10 Finally, the Second Amended Complaint fails to allege sufficient facts to 11 allege an unjust enrichment claim.

Plaintiff does not assert that Defendant is unable 12 or unwilling to fulfil the terms of the VSC and has not alleged that Defendant has 13 not or will not fully comply with its contractual obligations. Moreover, Plaintiff’s 14 unjust enrichment claim is premised on the VSC being void.

Because Plaintiff has 15 not alleged sufficient facts to void the VSC, Plaintiff's unjust enrichment claim 16 fails as well. 17 In sum, Plaintiff has failed to plausibly allege the required elements of his 18 CPA and unjust enrichment claims.

Because Plaintiff has already been allowed an 19 opportunity to amend, the Court will not grant Plaintiff leave to amend. 20 // 21 // 22 // 23 // 24 // 25 // 26 // 27 // 28 // 1 Accordingly, IT IS ORDERED: 1. Defendant's Motion to Dismiss, ECF No. 38, is GRANTED. 3 2.

The above-captioned case is DISMISSED, with prejudice. 3. Attorney Melanie Cockrum Motion for Admission pro Hac Vice, ECF 5|| No. 42, is GRANTED. IT IS SO ORDERED. The District Court Clerk is hereby directed to enter this Order, provide copies to counsel, and close the file. 8 DATED this 20th day of April 2026. 9 12 Stan Bastian 3 Chief United States District Judge 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 ORDER GRANTING MOTION TO DISMISS ~ 6