

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Korttney Elliott v. Joeun Enterprises, Inc.

No. 2:23-cv-01743-SB-PD, United States District Court for the Central District of California (March 10, 2023)

SUMMARY

The United States District Court for the Central District of California ordered Plaintiff to show cause why her California Unruh Civil Rights Act claim should not be dismissed without prejudice for lack of supplemental jurisdiction. The order relies on 28 U.S.C. § 1367(c)(4) and Arroyo v. Rosas to identify exceptional circumstances involving California’s regulation of high-frequency disability-access litigation and related federal-state comity concerns. Plaintiff was directed to identify the statutory damages sought and provide declarations addressing whether she and her counsel qualify as high-frequency litigants.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Stanley Blumenfeld, Jr.
JURISDICTION	United States District Court for the Central District of California
DECIDED	March 10, 2023
DOCKET	2:23-cv-01743-SB-PD
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed an action alleging violations of the Americans with Disabilities Act and California's Unruh Civil Rights Act. Before adjudicating the merits, the district court issued an order to show cause why the Unruh Act claim should not be dismissed without prejudice for lack of supplemental jurisdiction under 28 U.S.C. § 1367(c)(4).
STANDARD OF REVIEW	Supplemental jurisdiction under 28 U.S.C. § 1367 is discretionary; a district court may decline jurisdiction when exceptional circumstances and other compelling reasons exist under § 1367(c)(4).
PRECEDENTIAL VALUE	Unpublished district court order; precedential status unknown

TOPICS

subject matter jurisdiction

civil procedure

architectural barriers

ada / disability

public accommodations discrimination

PRACTICE AREAS

Civil procedure

Americans with Disabilities Act

California Unruh Civil Rights Act

Federal courts and supplemental jurisdiction

QUESTIONS PRESENTED

1. Whether the court should decline supplemental jurisdiction over Plaintiff's Unruh Act claim under 28 U.S.C. § 1367(c)(4) based on the exceptional circumstances and federal-state comity concerns identified in *Arroyo v. Rosas*.
2. Whether Plaintiff should be required to show cause why the Unruh Act claim should not be dismissed without prejudice before the court made a final jurisdictional determination.

HOLDINGS

1. A district court may decline to exercise supplemental jurisdiction over an ADA-based Unruh Act claim when exceptional circumstances and compelling federal-state comity concerns exist under 28 U.S.C. § 1367(c)(4), particularly where retaining the claim could circumvent California's statutory reforms concerning high-frequency litigants.

KEY QUOTATIONS

“supplemental jurisdiction “is a doctrine of discretion, not of plaintiff’s right,” and district courts “can decline to exercise jurisdiction over pendent claims for a number of valid reasons.”” (1)

“retention of supplemental jurisdiction over ADA-based Unruh Act claims threatens to substantially thwart California’s carefully crafted reforms in this area and to deprive the state courts of their critical role in effectuating the policies underlying those reforms.” (2)

“Unlike Arroyo, this case is still at a very early stage, and this Court has not yet addressed or adjudicated the merits of any of Plaintiff’s claims.” (2)

“Accordingly, the Court ORDERS Plaintiff within 14 days after entry of this Order to show cause in writing why the Court should not dismiss without prejudice her Unruh Act claim under Section 1367(c)(4).” (2)

FACTUAL BACKGROUND

Plaintiff alleged that she uses a wheelchair while traveling in public and that Defendant's facilities contain physical barriers impeding her access. She asserted claims under the ADA and California's Unruh Act. The court characterized the Unruh Act claim as closely related to the ADA claim but expressed concern that retaining jurisdiction could undermine California's statutory reforms addressing high-frequency litigation.

PROCEDURAL HISTORY

Plaintiff commenced the action in federal district court. The court had not ruled on the merits of any claim and, relying on the Ninth Circuit's decision in *Arroyo v. Rosas*, ordered Plaintiff to show cause within 14 days why the Unruh Act claim should not be dismissed without prejudice. The order stated that failure to respond would result in dismissal of that claim without further order.

DISPOSITION

other

CASES CITED

- *City of Chi. v. Int'l Coll. of Surgeons*, 522 U.S. 156, 172 (1997)
- *Arroyo v. Rosas*, 19 F.4th 1202 (9th Cir. 2021)

OPINION

Case 2:23-cv-01743-SB-PD Document 11 Filed 03/10/23 Page 1 of 3 Page ID #:45 UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA KORTTNEY ELLIOTT, Case No. 2:23-cv-01743-SB-PD Plaintiff, v. ORDER TO SHOW CAUSE JOEUN ENTERPRISES, INC., Defendant. Plaintiff Korttney Elliot, who requires the use of a wheelchair while traveling in public, filed this suit alleging that Defendant's facilities impose physical barriers that impede her access, in violation of, inter alia, the Americans with Disabilities Act (ADA) and the Unruh Act.

Dkt. No. 1. Because Plaintiff's Unruh Act claim is closely related to her ADA claim, the Court has authority to exercise supplemental jurisdiction over the Unruh Act claim under 28 U.S.C. § 367(a). However, supplemental jurisdiction "is a doctrine of discretion, not of plaintiff's right," and district courts "can decline to exercise jurisdiction over pendent claims for a number of valid reasons." *City of Chi. v. Int'l Coll. of Surgeons*, 522 U.S. 156, 172 (1997) (internal quotation marks and citations omitted).

This discretion is codified in Section 1367(c): The district courts may decline to exercise supplemental jurisdiction over a claim under subsection (a) if— (1) the claim raises a novel or complex issue of State law, (2) the claim substantially predominates over the claim or claims over which the district court has original jurisdiction, (3) the district court has dismissed all claims over which it has original jurisdiction, or 1 Case 2:23-cv-01743-SB-PD Document 11 Filed 03/10/23 Page 2 of 3 Page ID #:46 (4) in exceptional circumstances, there are other compelling reasons for declining jurisdiction.

28 U.S.C. § 1367(c). In a published decision, the Ninth Circuit explained that the California Legislature's 2012 and 2015 amendments to the Unruh Act, which were intended to protect businesses from abusive litigation by high-frequency litigants bringing construction-related

claims, had led to a surge of filings in federal courts of ADA cases seeking statutory damages under the Unruh Act.

Arroyo v. Rosas, 19 F.4th 1202 (9th Cir. 2021). The Ninth Circuit agreed with the district court that this shift in filings from state courts to federal courts had circumvented the state legislature's goals and "rendered [the new statutory requirements] largely toothless, because they can now be readily evaded." *Id.* at 1213.

The court explained that "retention of supplemental jurisdiction over ADA-based Unruh Act claims threatens to substantially thwart California's carefully crafted reforms in this area and to deprive the state courts of their critical role in effectuating the policies underlying those reforms." *Id.* Thus, the court held that these circumstances are "exceptional" within the meaning of Section 1367(c)(4) and therefore potentially justified declining supplemental jurisdiction over the plaintiff's Unruh Act claim.

See *id.* ("The district court did not abuse its discretion in concluding that this extraordinary situation threatens unusually significant damage to federal-state comity and presents 'exceptional circumstances' within the meaning of § 1367(c)(4).").

However, because the district court had waited to decline supplemental jurisdiction until after granting summary judgment on the plaintiff's ADA claim, thereby effectively deciding the Unruh Act claim, the Ninth Circuit reversed the court's decision to decline supplemental jurisdiction, holding that it had waited too long to invoke the comity interest. *Id.* at 1215–17.

Unlike *Arroyo*, this case is still at a very early stage, and this Court has not yet addressed or adjudicated the merits of any of Plaintiff's claims. This appears to be a case in which the Court should decline supplemental jurisdiction over Plaintiff's Unruh Act claim under Section 1367(c)(4) to protect the comity interests identified in *Arroyo*.

Accordingly, the Court ORDERS Plaintiff within 14 days after entry of this Order to show cause in writing why the Court should not dismiss without prejudice her Unruh Act claim under Section 1367(c)(4). Plaintiff's response must identify the amount of statutory damages Plaintiff seeks to recover and must be supported by declarations, signed under penalty of perjury, providing all facts necessary for the Court to determine if Plaintiff and her counsel satisfy the definition of a "high-frequency litigant" as provided by Cal. Code Civ.

Proc. 2 Case 2:23-cv-01743-SB-PD Document 11 Filed 03/10/23 Page 3 of 3 Page ID #:47 § 425.55(b)(1)–(2). If Plaintiff fails to file a response within 14 days after entry of this Order, the Court will decline to exercise supplemental jurisdiction over her Unruh Act claim, and the Unruh Act claim will be automatically dismissed without prejudice without further order of the Court.

IT IS SO ORDERED. Date: March 10, 2023 _____ Stanley
Blumenfeld, Jr. United States District Judge 3

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