

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Jevarien Zymell Dunlap v. Samaritan House

Dunlap v. Samaritan House · No. 25-cv-09086-LJC · Decided January 27, 2026

SUMMARY

The United States District Court for the Northern District of California grants Jevarien Dunlap’s application to proceed in forma pauperis and orders Dunlap to show cause why the complaint against Samaritan House should not be dismissed. The court identifies potential deficiencies in diversity jurisdiction, including failure to establish complete diversity and plausibly allege an amount in controversy exceeding \$75,000, and continues the case management conference.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	A. J. Cisneros
JURISDICTION	United States District Court for the Northern District of California
DECIDED	January 27, 2026
DOCKET	25-cv-09086-LJC
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed a pro se complaint asserting negligence and premises-liability claims and applied to proceed in forma pauperis. After granting the application, the court conducted statutory screening and ordered plaintiff to show cause why the complaint should not be dismissed for lack of subject-matter jurisdiction.
STANDARD OF REVIEW	The court screened the complaint sua sponte under 28 U.S.C. § 1915(e)(2)(B) and applied the Rule 12(b)(6) plausibility standard, construing the pro se pleading liberally while disregarding conclusory legal allegations.
PRECEDENTIAL VALUE	Unpublished federal district court order; nonprecedential except as permitted by applicable rules.
PARTIES	Jevarien Zymell Dunlap v. Samaritan House

TOPICS

subject matter jurisdiction

pleadings

motions to dismiss

negligence

premises liability

PRACTICE AREAS

Civil procedure

Federal jurisdiction

Torts

QUESTIONS PRESENTED

1. Whether the complaint adequately established federal subject-matter jurisdiction through diversity of citizenship under 28 U.S.C. § 1332(a).
2. Whether the complaint plausibly alleged that the amount in controversy exceeded \$75,000.
3. Whether the complaint established federal-question jurisdiction under 28 U.S.C. § 1331.
4. Whether the complaint should be dismissed or plaintiff should receive an opportunity to amend after IFP screening.

HOLDINGS

1. A federal court must independently determine whether subject-matter jurisdiction exists, even when no party has challenged jurisdiction.
2. Diversity jurisdiction requires complete diversity between all plaintiffs and all defendants and an amount in controversy exceeding \$75,000; the party invoking jurisdiction bears the burden of establishing those requirements.
3. The complaint did not establish federal-question jurisdiction because it did not identify a claim arising under the Constitution, laws, or treaties of the United States.
4. A pro se plaintiff ordinarily must be given leave to amend unless it is absolutely clear that the pleading's deficiencies cannot be cured by amendment.

KEY QUOTATIONS

“Sufficient cause having been shown, that application is GRANTED.” (at 1)

“Accordingly, Dunlap is ORDERED TO SHOW CAUSE why this case should not be dismissed for lack of subject matter jurisdiction.” (at 4)

FACTUAL BACKGROUND

Dunlap alleged that Dunlap was bitten by a bug while sleeping at Samaritan House, causing a swollen hand. The complaint further alleged that shelter staff negligently left a door open for extended periods. Dunlap asserted negligence and premises-liability claims, sought \$122,630, and alleged diversity jurisdiction, but pleaded residence in Oakland, California and did not establish the citizenship or legal organization of Samaritan House.

PROCEDURAL HISTORY

Dunlap filed a complaint against Samaritan House and sought leave to proceed in forma pauperis. The court granted IFP status, reviewed the complaint under 28 U.S.C. § 1915(e)(2)(B), found that diversity jurisdiction

was not adequately pleaded and that no federal-question jurisdiction was apparent, and ordered Dunlap to file an amended complaint or response within four weeks. No dismissal was entered in this order.

DISPOSITION

other

CASES CITED

- Omar v. Sea-Land Serv., Inc., 813 F.2d 986, 991 (9th Cir. 1987)
- Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Denton v. Hernandez, 504 U.S. 25, 32-33 (1992)
- Arbaugh v. Y&H Corp., 546 U.S. 500, 514 (2006)
- Franklin v. Murphy, 745 F.2d 1221, 1235 n.9 (9th Cir. 1984)
- Caterpillar Inc. v. Lewis, 519 U.S. 61, 68 (1996)
- Kanter v. Warner-Lambert Co., 265 F.3d 853, 857 (9th Cir. 2001)
- Johnson v. Columbia Props. Anchorage, LP, 437 F.3d 894, 899 (9th Cir. 2006)
- Scott v. Breeland, 792 F.2d 925, 927 (9th Cir. 1986)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992)

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7
JEVARIEN ZYMELL DUNLAP, Case No. 25-cv-09086-LJC 8 Plaintiff, ORDER GRANTING
APPLICATION TO PROCEED IN FORMA PAUPERIS 9 v. ORDER TO SHOW CAUSE WHY
10 SAMARITAN HOUSE, COMPLAINT SHOULD NOT BE DISMISSED Defendant. 11 Re:
Dkt. Nos. 1, 2 12 13 I. INTRODUCTION AND IFP APPLICATION 14 Plaintiff Jevarien Dunlap,
pro se, applies to proceed in forma pauperis (IFP).

See ECF 15 No. 2. Sufficient cause having been shown, that application is GRANTED. 16 The
Court now reviews the sufficiency of Dunlap's Complaint against Defendant M & O 17 Mart Deli
to determine whether it should be dismissed under 28 U.S.C. § 1915(e)(2)(B).

For the 18 reasons discussed below, Dunlap is ORDERED TO SHOW CAUSE why the Complaint
should 19 not be dismissed. Dunlap must file no later than four weeks from the date of this Order
either: 20 (1) an amended complaint that cures the defects identified in this Order; or (2) a
response to this 21 Order explaining why the current Complaint is sufficient to proceed.

If Dunlap does not file either 22 an amended complaint or a response by that deadline, or fails to
cure the defects identified in this 23 Order, the case will be reassigned to a district judge with a
recommendation that it be dismissed. 24 The case management conference previously scheduled

for February 12, 2026 is 25 CONTINUED to May 14, 2026 at 1:30 PM, to occur via Zoom webinar videoconference.

Access 26 instructions are available at <https://cand.uscourts.gov/ljc/>. Dunlap must file a case management 27 statement no later than May 7, 2026. If Defendant has been served and appeared by that date, 1 file a joint case management statement. 2 II. THE COMPLAINT 3 Dunlap brings this action against Defendant Samaritan House, a shelter that Dunlap alleges 4 is located in San Francisco, California.

Compl. (ECF No. 1) at 1–2, § I. The Court takes judicial 5 notice that the North Access Road address Dunlap provides for Samaritan House is in fact in 6 South San Francisco, a different city, but that distinction is of no consequence to this Order. 7 The Complaint alleges that Dunlap was “bitten by a bug” while sleeping at Samaritan 8 House, resulting in a swollen hand, and that the staff there negligently leave the door open for 9 extended periods of time.

Compl. at 3, 5, §§ V, VI. Dunlap asserts claims for negligence and 10 premises liability, Compl. at 5, § VI, and subject matter jurisdiction based on diversity of 11 citizenship, Compl. at 2, § II. 12 III. LEGAL STANDARD 13 When an application to proceed in forma pauperis has been granted, the Court must then 14 evaluate the sufficiency of his Complaint under 28 U.S.C. § 1915(e)(2)(B), which provides in 15 relevant part that after granting permission to proceed in forma pauperis, a court “shall dismiss the 16 case at any time if the court determines that... the action... is frivolous or malicious [or] fails to 17 state a claim on which relief may be granted.” 28 U.S.C. § 1915(e)(2) (B)(i), (ii).

When a 18 complaint fails to state a claim on which relief may be granted, a court may also dismiss the case 19 sua sponte (meaning on the court’s own initiative) under Rule 12(b)(6) of the Federal Rules of 20 Civil Procedure, regardless of whether a plaintiff is proceeding in forma pauperis. *Omar v. Sea- 21 Land Serv., Inc.*, 813 F.2d 986, 991 (9th Cir. 1987).

22 When the complaint has been filed by a pro se plaintiff, a court must “construe the 23 pleadings liberally and... afford the petitioner the benefit of any doubt.” *Hebbe v. Pliler*, 627 24 F.3d 338, 342 (9th Cir. 2010) (citation omitted). But “[t]hreadbare recitals of the elements of a 25 cause of action... do not suffice,” and a court need not credit “legal conclusions” or “mere 26 conclusory statements.” See *Ashcroft v. Iqbal*, 556 U.S. 662, 678–79 (2009).

In order to state a 27 claim on which relief may be granted, the factual allegations in the complaint “must be enough to 1 (2007). A complaint must demonstrate “facial plausibility” by pleading “factual content that 2 allows the court to draw the reasonable inference that the defendant is liable for the misconduct 3 alleged.” *Iqbal*, 556 U.S. at 678.

In other words, the Complaint needs to include facts, not just the 4 type of legal claim the plaintiff asserts. In assessing whether a complaint is “frivolous” under 5 § 1915, the Court may also

consider whether “the facts alleged are clearly baseless, a category 6 encompassing allegations that are fanciful, fantastic, and delusional.” *Denton v. Hernandez*, 504 U.S. 25, 32–33 (1992).

8 Furthermore, federal courts are courts of limited subject matter jurisdiction, and a plaintiff 9 must provide a sufficient explanation of why this case falls within that jurisdiction. Two of the 10 most common grounds for federal subject matter jurisdiction are federal question jurisdiction 11 under 28 U.S.C. § 1331, which applies to claims “arising under the Constitution, laws, or treaties 12 of the United States,” and diversity jurisdiction under 28 U.S.C. § 1332(a), which applies to cases 13 where no defendant is a citizen of the same state as any plaintiff and where the amount in 14 controversy exceeds \$75,000.

Federal courts “have an independent obligation to determine 15 whether subject-matter jurisdiction exists, even in the absence of a challenge from any party.” 16 *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006). 17 Courts ordinarily must give pro se plaintiffs leave to “amend their complaint unless it is 18 absolutely clear that the deficiencies of the complaint could not be cured by amendment.” 19 *Franklin v. Murphy*, 745 F.2d 1221, 1235 n.9 (9th Cir.

1984). 20 IV. ANALYSIS 21 As noted above, Dunlap asserts that this federal district court has subject matter 22 jurisdiction based on diversity of citizenship. Compl. at 2, § II. Diversity jurisdiction under 28 23 U.S.C. § 1332(a) applies to cases between “citizens of different states”¹ where “the matter in 24 controversy exceeds the sum or value of \$75,000.” 28 U.S.C. § 1332(a).

That statute “applies 25 only to cases in which the citizenship of each plaintiff is diverse from the citizenship of each 26 defendant.” *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 68 (1996). 27 1 For the purpose of diversity jurisdiction, an individual person who is a citizen of the 2 United States is considered a citizen of the state where they are “domiciled,” which means the 3 state where that person “resides with the intention to remain or to which she intends to return.” 4 *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir.

2001). Dunlap’s complaint does not 5 address domicile specifically, but it indicates that Dunlap resides in Oakland, California. Compl. 6 at 1. There is no indication that Dunlap is a citizen of any state other than California. 7 There are various rules for determining the state or states where different types of legal 8 entities are citizens. See *Johnson v. Columbia Props.*

Anchorage, LP, 437 F.3d 894, 899 (9th Cir. 9 2006) (discussing corporations, limited liability companies, limited partnerships, and trusts). 10 Dunlap has not addressed how Samaritan House is organized as a legal entity, so the Court cannot 11 say with any confidence where Samaritan House is a citizen for the purpose of diversity 12 jurisdiction. But the Complaint alleges that Samaritan House is located in California, and there is 13 no indication that it has ties to any other state.

14 “The party seeking to invoke the court’s jurisdiction bears the burden of establishing that 15 jurisdiction exists.” *Scott v. Breeland*, 792 F.2d 925, 927 (9th Cir. 1986). Dunlap has not met that

16 burden to show that Dunlap and Samaritan House are citizens of different states, as is necessary
17 for diversity jurisdiction under § 1332(a). It is also not clear that Dunlap has plausibly alleged
that 18 the amount in controversy exceeds \$75,000, when Dunlap's "monetary Demand of
122,630" 19 (presumably dollars) for a bug bite is unsupported by factual allegations regarding
Dunlap's 20 damages or the amount that Dunlap could recover.

See Compl. at 7. Nor is any other basis for 21 jurisdiction apparent. Dunlap has not established
federal question jurisdiction under 28 U.S.C. 22 § 1331, for example, because Dunlap does not
identify any claim as arising under federal law. 23 Accordingly, Dunlap is ORDERED TO SHOW
CAUSE why this case should not be dismissed for 24 lack of subject matter jurisdiction.

25 V. CONCLUSION 26 For the reasons discussed above, Dunlap is ORDERED TO SHOW
CAUSE why this case 27 should not be dismissed for lack of subject matter jurisdiction. Dunlap
must file no later than four] identified in this Order; or (2) a response to this Order explaining
why the current Complaint is 2 || sufficient to proceed. 3 If Dunlap files an amended complaint, it
must list the same case number as this Order (25- 4 || cv-09086) and must include all of the claims
Dunlap wishes to assert and all of the defendants 5 || Dunlap wishes to sue.

An amended complaint completely replaces an original complaint and 6 || cannot rely on the
contents of the original complaint. See *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 7 { (9th Cir.
1992). 8 If Dunlap does not respond to this Order as required above, this case may be dismissed
for 9 || failure to prosecute and failure to comply with a court order, in addition to the other
grounds for 10 || dismissal identified in this Order.

11 If Dunlap continues to proceed without an attorney, the Court encourages Dunlap to 12 ||
review the section "Representing Yourself" on the Court's website, located at 13
<https://www.cand.uscourts.gov/pro-se-litigants/>. Dunlap is also encouraged to contact the Court's
14 || Legal Help Centers. Attorneys at the Legal Help Centers can provide basic assistance and
advice 15 || to parties representing themselves but cannot provide legal representation.

Dunlap may schedule a 16 || an appointment by calling 415-782-8982 or emailing
fedpro@sfbare.org. 17 IT IS SO ORDERED. Zz 18 || Dated: January 27, 2026 19 20 Ze, Mri — 'A
J. CISNEROS 21 ited States Magistrate Judge 22 23 24 25 26 27 28