

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Brian M. Lowenthal v. Wilshire Commercial Properties LLC, et al.

Lowenthal v. Wilshire Commercial Properties LLC · No. 2:25-cv-04547-CV-JDE · Decided July 23, 2025

SUMMARY

The United States District Court for the Central District of California accepted a magistrate judge's findings and recommendation and addressed Plaintiff's untimely amended complaint and request for emergency injunctive relief. The court denied the request for a temporary restraining order and ordered judgment dismissing the action with prejudice because the amended complaint asserted no viable basis for federal jurisdiction or claim for relief.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Cynthia Valenzuela
JURISDICTION	United States District Court for the Central District of California
DECIDED	July 23, 2025
DOCKET	2:25-cv-04547-CV-JDE
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed and accepted a magistrate judge's Report and Recommendation after Plaintiff failed to timely object. The court also considered Plaintiff's untimely Amended Complaint and Emergency Motion for Temporary Restraining Order.
STANDARD OF REVIEW	The district court reviewed the magistrate judge's Report and Recommendation under 28 U.S.C. § 636. The court applied the Winter preliminary-injunction standard to the TRO request.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Brian M. Lowenthal v. Wilshire Commercial Properties LLC, et al.

TOPICS

- declaratory judgment
- injunctions
- subject matter jurisdiction
- eviction
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court should approve and accept the magistrate judge's Report and Recommendation when Plaintiff did not timely object.
2. Whether the untimely Amended Complaint could proceed when it violated the magistrate judge's order and failed to state a viable claim or establish federal jurisdiction.
3. Whether Plaintiff was entitled to a temporary restraining order preventing a state-court unlawful-detainer action and eviction from proceeding.

HOLDINGS

1. The Amended Complaint could not proceed because it was filed in violation of the magistrate judge's order, and, even if considered, it failed to state a viable claim or establish an independent basis for federal jurisdiction.
2. The TRO Request was denied because Plaintiff had not alleged a viable claim and therefore could not show a likelihood of success on the merits.

KEY QUOTATIONS

“Absent a waiver, sovereign immunity shields the Federal Government and its agencies from suit.” (at 2)

“The Declaratory Judgment Act . . . does not provide a waiver of sovereign immunity.” (at 2)

“injunctive relief [is] an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” (at 3)

“A request for injunctive relief should be denied when based on a complaint that fails to state a claim.” (at 3)

FACTUAL BACKGROUND

Plaintiff sought declaratory relief involving the U.S. Department of Housing and Urban Development, the U.S. Department of Veterans Affairs, and Wilshire Properties. He later sought emergency injunctive relief to prevent a state-court unlawful-detainer action and eviction from proceeding. The court concluded that the amended pleading was filed contrary to the magistrate judge's order and, even if considered, did not state a viable claim or establish an independent basis for federal jurisdiction.

PROCEDURAL HISTORY

Plaintiff filed a complaint, after which the magistrate judge issued an order regarding the complaint and a Report and Recommendation. Plaintiff did not timely object to the Report. After the objection deadline, Plaintiff filed an Amended Complaint, a Motion to Reopen Dismissed Action, and a TRO Request. The court approved and accepted the Report, denied the TRO Request, and ordered judgment dismissing the action with prejudice.

DISPOSITION

dismissed

CASES CITED

- Fed. Deposit Ins. Corp. v. Meyer, 510 U.S. 471, 475 (1993)
- Alter v. U.S. Supreme Ct., 2023 WL 4873627, at *3 (C.D. Cal. July 31, 2023)
- Countrywide Home Loans, Inc. v. Mortgage Guar. Ins. Corp., 642 F.3d 849, 853 (9th Cir. 2011)
- Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 20, 22 (2008)
- Big Country Foods, Inc. v. Bd. of Educ. of the Anchorage Sch. Dist., Anchorage, 868 F.2d 1085, 1087 (9th Cir. 1989)
- Henry Schein, Inc. v. Cook, 191 F. Supp. 3d 1072, 1076 (N.D. Cal. 2016)
- Niu v. United States, 821 F. Supp. 2d 1164, 1167 (C.D. Cal. 2011)
- Smith v. Cal. Dep't of Corr. & Rehabs., 2020 WL 1503431, at *4 (E.D. Cal. Mar. 30, 2020), adopted by 2020 WL 2126831 (E.D. Cal. May 5, 2020)
- Jaax v. United States, 2008 WL 4630559, at *2 (C.D. Cal. Oct. 17, 2008)
- Most v. Pritzker, 2020 WL 4582593, at *2 (S.D. Ill. Aug. 10, 2020)