

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Gilbert v. Rashid

Gilbert · No. 1:22-cv-00674-ADA-HBK · Decided March 13, 2023

SUMMARY

The United States District Court for the Eastern District of California ordered Plaintiff Darren Gilbert to show cause why the court should exercise supplemental jurisdiction over his California Unruh Act and California Health and Safety Code accessibility claims. The order, issued in connection with Plaintiff’s motion for default judgment, required declarations addressing whether Plaintiff and counsel qualified as high-frequency litigants and warned that failure to respond would be treated as non-opposition to declining supplemental jurisdiction.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Helena M. Barch-Kuchta
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 13, 2023
DOCKET	1:22-cv-00674-ADA-HBK
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for default judgment in an action asserting claims under Title III of the Americans with Disabilities Act, the California Unruh Act, and California Health and Safety Code sections 19955 and 19959. Before ruling on the motion, the magistrate judge ordered plaintiff to show cause why the district court should exercise supplemental jurisdiction over the state-law claims.
PRECEDENTIAL VALUE	Unknown; district court order to show cause
PARTIES	Darren Gilbert v. Haroon Al Rashid, individually and doing business as Rahman Gas and Market, also known as Triple R Gasoline

TOPICS

- subject matter jurisdiction
- civil procedure
- default judgment
- public accommodations discrimination
- ada / disability

PRACTICE AREAS

civil procedure

supplemental jurisdiction

Americans with Disabilities Act

accessibility discrimination

QUESTIONS PRESENTED

1. Whether plaintiff should be required to show cause why the court should exercise supplemental jurisdiction over the California Unruh Act claim.
2. Whether plaintiff should be required to show cause why the court should exercise supplemental jurisdiction over the California Health and Safety Code claims in light of California's additional filing and heightened pleading requirements for construction-related accessibility claims.

HOLDINGS

1. The court ordered plaintiff to show cause, within fourteen days, why the undersigned should recommend that the district court exercise supplemental jurisdiction over the Unruh Act and California Health and Safety Code claims.

KEY QUOTATIONS

“A district court presiding over a civil action in which it has original jurisdiction “shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article II of the United States Constitution.”” (at 1)

FACTUAL BACKGROUND

Darren Gilbert alleged that Haroon Al Rashid, operating Rahman Gas and Market, also known as Triple R Gasoline, violated Title III of the ADA, the California Unruh Act, and California Health and Safety Code sections 19955 and 19959 through accessibility-related conduct. Gilbert sought statutory damages, fees, costs, injunctive relief, litigation expenses, and interest, and moved for default judgment. The court focused on whether the state-law accessibility claims should remain within the court's supplemental jurisdiction, particularly in light of California requirements applicable to high-frequency litigants.

PROCEDURAL HISTORY

Plaintiff filed the complaint on June 3, 2022, and later filed a motion for default judgment on December 9, 2022. The matter was referred to Magistrate Judge Helena M. Barch-Kuchta under 28 U.S.C. § 636(b)(1)(B) and Local Rule 302(c)(19). The court issued an order to show cause requiring plaintiff to address supplemental jurisdiction over the Unruh Act and California Health and Safety Code claims.

DISPOSITION

other

CASES CITED

- Vo v. Choi, 49 F.4th 1167, 1172-1174 (9th Cir. 2022)

- Arroyo, Jr. v. Rosas, 19 F.4th 1202, 1206, 1211-1214 (9th Cir. 2021)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 DARREN GILBERT, Case No. 1:22-cv-00674-ADA-HBK 12 Plaintiff,
ORDER TO SHOW CAUSE1 13 v. 14 DAY DEADLINE 14 HAROON AL RASHID,
individually and dba RAHMAN GAS AND MARKET aka 15 TRIPLE R GASOLINE, 16
Defendant. 17 18 Pending before the Court is Plaintiff’s motion for default judgment filed
December 9, 19 2022 (Doc.

No. 9). Plaintiff Darren Gilbert commenced this action by filing a complaint against 20
Defendants Haroon Al Rashid, individually and doing business as Rahman Gas and Market, also
21 known as Triple R Gasoline (collectively “Defendants”) alleging violations of Title III of the 22
Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12101 et seq (Count I); the California 23
Unruh Act, California Civil Code § 51 et seq.

(Count II); and California Health & Safety Code 24 §§ 19955, 19959 (Count III) on June 3, 2022.
(Doc. No. 1, “Complaint”). Plaintiff seeks an 25 award of statutory damages, costs of suit,
attorney’s fees, litigation expenses, injunctive or 26 preventative relief, and interest at the legal
rate from the date of filing of the Complaint. (Id. at 27 1 This matter was referred to the
undersigned pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 28 302(c)(19).

1 8). Plaintiff noting this Court has original jurisdiction over the ADA claims seeks to have this 2
Court exercise supplemental jurisdiction over Plaintiff’s state law Unruh Act Claim and the 3
California Health & Safety Code claim. (Id. at 2). 4 A district court presiding over a civil action in
which it has original jurisdiction “shall 5 have supplemental jurisdiction over all other claims that
are so related to claims in the action 6 within such original jurisdiction that they form part of the
same case or controversy under Article 7 II of the United States Constitution.” 28 U.S.C. §
1367(a).

Nonetheless, a district court may 8 decline to exercise supplemental jurisdiction over a claim if: 9
(1) the claim raises a novel or complex issue of State law, 10 (2) the claim substantially
predominates over the claim or claims over which the district court has original jurisdiction, 11 (3)
the district court has dismissed all claims over which it has 12 original jurisdiction, or 13 (4) in
exceptional circumstances, there are other compelling reasons for declining jurisdiction.

14 15 28 U.S.C. § 1367(c). 16 The Ninth Circuit recently upheld a district court’s finding of
“extraordinary 17 circumstances” and “compelling reasons” to decline supplemental jurisdiction
under the Unruh 18 Act over accessibility related discrimination claims for high frequency
litigators. See *Vo v. Choi*, 19 49 F. 4th 1167, 1174 (9th Cir. 2022); see also *Arroyo, Jr. v. Rosas*, 19
F.4th 1202, 1206 (9th Cir.

20 2021) (finding “extraordinary circumstances”). Significant to the courts’ decisions were the 21 additional filing and heightened pleading requirements California law imposes on high frequency 22 litigators.2 Vo, 49 F. 4th at 1172-74; Arroyo, 19 F. 4 1211-14. Considering Vo, Plaintiff shall 23 show cause why the undersigned should recommend the district court exercise supplemental 24 jurisdiction over Plaintiff’s Unruh Act claim (Claim II).

25 The same additional filing and heightened pleading requirements are not limited to claims 26 2 Cal. Civ. Proc. Code § 425.55(b)(1) defines “high frequency litigators” as persons who have filed 10 or 27 more complaints alleging construction related accessibility violation in the 12-month period preceding the filing of the instant action).

The definition also extends to attorneys. Id. § 425.55(b)(2). 28 1 | under the Unruh Act but also apply to other statutes for “construction-related accessibility 2 | claims.” Arroyo, 19 F.4that 1206; see also Cal. Proc. Civ. Code § 425.50(a); Cal. Civ. Code § 3 | 55.2. A “construction-related accessibility standard” means “a provision, standard, or regulation 4 | under state or federal law requiring compliance with standards for making new construction and 5 | existing facilities accessible to people with disability, including, but not limited to, any provision, 6 | standard, or regulation set forth in [Cal.

Civ. Code §] 51... ([Cal. Health and Safety Code §] 7 | 19955.5...the federal [ADA]...” Cal. Civ. Code. § 55.52 (a)(6). Both §§ 19955 and 19959 8 || were enacted to safeguard that certain facilities are accessible to disabled individuals and § 9 | 19955.5 is expressly included as subject to the “construction-related accessibility standard.” 10 | Thus, because these same filing and pleading requirements apply to Plaintiff’s Health and Safety 11 | Code claim, Plaintiff shall show cause why the undersigned should recommend the district court 12 || exercise supplemental jurisdiction over Plaintiff’s Health and Safety Code claim (Count III).

13 Accordingly, it is ORDERED: 14 1. Plaintiff shall show cause in writing, no later than fourteen (14) days from the date of 15 this Order, why the undersigned should recommend the district court exercise 16 supplemental jurisdiction over Plaintiff’s Unruh Act Claim (Claim II) and Health and 17 Safety Code claim (Count HI). 18 2. Plaintiff shall include with his response declarations from both Plaintiff and □□□□□□□□□□ 19 counsel, signed under penalty of perjury, which include all facts necessary for the 20 Court to determine whether each is “high frequency litigant.” 21 3.

Plaintiff’s failure to respond to the Order shall be deemed a non-opposition to the 22 undersigned recommending the district court decline to exercise supplemental 23 jurisdiction over Plaintiffs related state law claims. 24 °° | Dated: _ March 13, 2023 Mihaw. Wh. foareh fackte 26 HELENA M. BARCH-KUCHTA 4 UNITED STATES MAGISTRATE JUDGE 28 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

