

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

James R. Hunter v. Theodora Paul, et al.

No. CV-25-03118-PHX-JAT (CDB) · No. 2:25-cv-03118 · Decided December 11, 2025

OPINION

Paul

PER CURIAM.

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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

8 9 James R. Hunter, No. CV-25-03118-PHX-JAT (CDB) 10 Plaintiff, 11 v. ORDER 12 Theodora Paul, et al., 13 Defendants. 14 15 Plaintiff James R. Hunter, who is confined in the Arizona State Prison Complex- 16 Yuma, has filed a pro se civil rights Complaint pursuant to 42 U.S.C. § 1983 (Doc. 1) and 17 an Application to Proceed In Forma Pauperis (Doc. 9). The Court will dismiss this action. 18 I. Application to Proceed In Forma Pauperis and Filing Fee 19 The Court will grant Plaintiff's Application to Proceed In Forma Pauperis. 20 U.S.C. § 1915(a). Plaintiff must pay the statutory filing fee of \$350.00. 21 U.S.C. § 1915(b)(1). The Court will not assess an initial partial filing fee. Id. The statutory filing 22 fee will be collected monthly in payments of 20% of the previous month's income credited 23 to Plaintiff's trust account each time the amount in the account exceeds \$10.00. 24 U.S.C. § 1915(b)(2). The Court will enter a separate Order requiring the appropriate government 25 agency to collect and forward the fees according to the statutory formula. 26 II. Statutory Screening of Prisoner Complaints 27 The Court is required to screen complaints brought by prisoners seeking relief 28 against a governmental entity or an officer or an employee of a governmental entity. 29 1 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff 2 has raised claims that are legally frivolous or malicious, fail to state a claim upon which 3 relief may be granted, or seek monetary relief from a defendant who is immune from such 4 relief. 5 U.S.C. § 1915A(b)(1)–(2). 5 A pleading must contain a "short and plain statement of the claim showing that the 6 pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does 7 not demand detailed factual allegations, "it demands more than an unadorned, the- 8 defendant-unlawfully-harmed-me accusation." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 9 (2009). "Threadbare recitals of the elements of a cause of action, supported by mere 10 conclusory statements, do not suffice." Id. 11 "[A] complaint must contain sufficient factual matter, accepted as true, to 'state a 12 claim to relief that is plausible on its face.'" Id. (quoting *Bell Atlantic Corp. v. Twombly*, 13 550 U.S. 544, 570 (2007)). A claim is plausible "when the plaintiff pleads factual content 14 that allows the court to

draw the reasonable inference that the defendant is liable for the 15 misconduct alleged.” Id. “Determining whether a complaint states a plausible claim for 16 relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial 17 experience and common sense.” Id. at 679. Thus, although a plaintiff’s specific factual 18 allegations may be consistent with a constitutional claim, a court must assess whether there 19 are other “more likely explanations” for a defendant’s conduct. Id. at 681. 20 But as the United States Court of Appeals for the Ninth Circuit has instructed, courts 21 must “continue to construe pro se filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338, 342 22 (9th Cir. 2010). A “complaint [filed by a pro se prisoner] ‘must be held to less stringent 23 standards than formal pleadings drafted by lawyers.’” Id. (quoting *Erickson v. Pardus*, 551 24 U.S. 89, 94 (2007) (per curiam)). 25 If the Court determines that a pleading could be cured by the allegation of other 26 facts, a pro se litigant is entitled to an opportunity to amend a complaint before dismissal 27 of the action. See *Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (en banc). 28 1 Plaintiff’s Complaint will be dismissed for failure to state a claim, without leave to amend 2 because the defects cannot be corrected. 3

III. Complaint 4

In his three-count Complaint, Plaintiff sues NaphCare Health Incorporated 5 (NaphCare); Centurion of Arizona (Centurion) and its parent company, Centene 6 Corporation (Centene); Centurion Vice President Tom Dolan; Regional Director Young; 7 Director of Nursing D. Mendoza; Dr. Theodora Paul; Oyuki Coronado; Clinical 8 Coordinator Erica Johnson; Nurse Practitioner Pfingston; and Nurse R. Branum. Plaintiff 9 also sues Columbia Casualty Company, Scottsdale Insurance Company, Zurich American 10 Insurance, and Starr Indemnity Insurance Company. Finally, Plaintiff sues the law firm of 11 Broening, Oberg, Woods & Wilson and attorneys Sarah Barnes and Katrina Chappel. 12 Plaintiff brings claims regarding Defendants’ alleged conduct in another of Plaintiff’s 13 pending civil rights cases in this Court, *Hunter v. Paul*, CV-24-02068-PHX-JAT (CDB). 14 He seeks injunctive and relief. 15

A. Background 16

To lend context to Plaintiff’s allegations, the Court describes the ongoing litigation 17 in *Hunter v. Paul*. Plaintiff originally filed the Complaint in state court and named 18 NaphCare, Centurion, Centene, Dolan, Young, Mendoza, Paul, Coronado, Johnson, 19 Pfingston, Branum, and various insurance companies as Defendants. Defendant Centurion 20 removed the case to this Court. Subsequently, Plaintiff filed a Third Amended Complaint. 21 (Doc. 8 in CV-24-02068.) The Court determined that Plaintiff stated an Eighth 22 Amendment claim in the Third Amended Complaint against Defendants Coronado, Paul, 23 and Pfingston and directed them to answer the claim. (Id., Doc. 12.) The Court dismissed 24 the remaining Defendants. (Id.) Sarah Barnes and Catrina Chapple of Broening, Oberg, 25 Woods & Wilson entered a Notice of Appearance on behalf of Defendants Coronado, Paul, 26 and Pfingston. 27 On February 24, 2025, Plaintiff filed a Motion for Permanent Injunction, and on 28 April 7, 2025, he filed an Emergency Motion for Injunction. (Id., Docs. 23, 26.) In both 1 Motions, Plaintiff asked the Court to issue an order enjoining defense counsel Sarah Barnes 2 and her firm, Broening Oberg Woods & Wilson, from representing any litigant where the 3

opposing party is a prisoner. Plaintiff alleged that Barnes had concealed evidence and 4 created false issues of material fact, which has led to prisoner deaths. In a June 3, 2025 5 Order, the Court denied the Motions, finding no evidence of misconduct. (Id., Doc. 30.) 6 On July 18, 2025, Defendants Coronado, Paul, and Pfingston filed a Motion for 7 Summary Judgment. (Id., Doc. 37.) Plaintiff moved to strike Defendants' Motion for 8 Summary Judgment, arguing that Plaintiff sought his own medical records during 9 discovery, but Defendants objected to their production and then relied on those same 10 records in their summary judgment motion. (Id., Doc. 39.) In a September 8, 2025 Order, 11 the Court denied Plaintiff's Motion to Strike and ordered Defendants to facilitate Plaintiff 12 obtaining his medical records and to file a notice of compliance. (Id., Doc. 52.) The next 13 day, Plaintiff filed a Motion to Disqualify Defendants' Attorneys, alleging that during 14 telephone conversations in February and August 2025, defense counsel made inappropriate 15 statements regarding a non-party inmate and threatened Plaintiff with vexatious litigant 16 designation unless he withdrew certain filings. (Id., Doc. 53) 17 On September 19, 2025, Defendants filed their Notice of Compliance. (Id., Doc. 18 53). Defendant Barnes filed a Response to Plaintiff's Motion to Disqualify, stating that 19 she advised Plaintiff that his filings appeared substantially similar to filings by the other 20 inmate, who had indicated that he would share documents with Plaintiff. (Id.) Barnes 21 recounted that she told Plaintiff that the continued submission of meritless filings could 22 result in Rule 11 sanctions and/or vexatious litigant designation. (Id.) In an October 3, 23 2025 Order, the Magistrate Judge denied Plaintiff's Motion to Disqualify, concluding that 24 the timing of Plaintiff's Motion to Disqualify—which he filed the day after the Court 25 denied his Motion to Strike—suggested that the Motion was not filed for a legitimate 26 concern, Plaintiff had not demonstrated the likelihood of cognizable harm, there was no 27 risk that the public would perceive defense counsel's representation of Defendants as 28 improper, and Plaintiff could file a complaint with the State Bar for any allegedly unethical 1 conduct by Defendant Barnes. (Id., Doc. 60.) 2 Defendants' Motion for Summary Judgment remains pending, and Plaintiff's 3 Response to the Motion is currently due on December 22, 2025. (Id., Doc. 62.) 4 B. Allegations 5 In Count One, Plaintiff asserts a First Amendment claim for denial of access to the 6 courts. Plaintiff alleges that in *Hunter v. Paul*, he requested his medical records from 7 Defendants Cornado, Paul, and Pfingston, through their attorney, Defendant Barnes, but 8 Defendants refused to provide his medical records. Plaintiff asserts that Defendants then 9 used his medical records to support their Motion for Summary Judgment. Plaintiff 10 contends that Defendants have "frustrated and impeded" his ability to have the Court "fully 11 review" his claims, thereby denying him access to the courts. Plaintiff also claims that 12 Defendants Cornado, Paul, and Pfingston, through Defendant Barnes, violated the Health 13 Insurance Portability and Accountability Act (HIPAA) when they used his medical records 14 in support of their Motion for Summary Judgment, where neither Defendants nor their 15 counsel obtained Plaintiff's authorization for the release of his records.¹ 16 In Count Two, Plaintiff asserts a First Amendment retaliation claim. Plaintiff 17 alleges that Defendants Cornado, Paul, and

Pfingston, through Defendant Barnes, retaliated 18 against him through the conduct alleged in Count One because Plaintiff sought relief for 19 violations of his Eighth Amendment rights. 20 In Count Three, Plaintiff asserts another First Amendment retaliation claim. 21 Plaintiff alleges that Defendants Cornado, Paul, and Pfingston, through Defendant Barnes, 22 retaliated against Plaintiff by concealing evidence—that is, Plaintiff’s medical records— 23 as described in Count One. Plaintiff claims that “over the years,” Defendant Barnes has 24 “utilized this same practice of withholding vital evidence from almost all pro per prison 25 litigant[]s” who have brought claims against Corizon, Centurion, and NaphCare. Plaintiff 26 contends that because Defendant Barnes has denied crucial evidence to pro se prisoner 27 28 1 HIPAA “provides no private right of action.” *Webb v. Smart Document Sols., LLC*, 499 F.3d 1079, 1081 (9th Cir. 2007). 1 plaintiffs, Defendant Barnes’s clients have prevailed in almost every case in which a 2 prisoner is pro se. Plaintiff claims that Defendants Centurion and NaphCare “condone and 3 are a party to this unethical practice.” 4

IV. Discussion 5

A. Absolute Immunity 6 If a government attorney is performing acts “intimately associated with the judicial 7 phase” of the litigation, that attorney is entitled to absolute immunity from damages 8 liability.” *Fry v. Melaragno*, 939 F.2d 832, 836-38 (9th Cir. 1991). “The proper forum for 9 challenges to these allegedly improper actions is in the adversary proceedings, not in a 10 separate suit for damages.” *Id.* Likewise, “[w]itnesses . . . are accorded absolute immunity 11 from liability for their testimony in judicial proceedings.” *Paine v. City of Lompoc*, 265 12 F.3d 975, 980 (9th Cir. 2001). Defendants Paul, Coronado, Pfingston, Barnes, Chappel, 13 and the law firm of Broening, Oberg, Woods & Wilson are absolutely immune from 14 liability for damages for their roles in *Hunter v. Paul*, and these Defendants will be 15 dismissed. 16

B. Defendants Dolan, Young, Mendoza, Johnson, and Branum 17 Plaintiff makes no specific allegations against Defendants Dolan, Young, Mendoza, 18 Johnson, and Branum and apparently has named them as Defendants here solely because 19 he named them as Defendants in *Hunter v. Paul*. Defendants Dolan, Young, Mendoza, 20 Johnson, and Branum were dismissed on screening and had no other involvement in *Hunter v. Paul*. Plaintiff cannot state any constitutional claim against them based on their 22 involvement in *Hunter v. Paul*, and Defendants Dolan, Young, Mendoza, Johnson, and 23 Branum will be dismissed. 24

C. NaphCare, Centurion, and Centene 25 To state a claim under § 1983 against a private entity performing a traditional public 26 function, such as providing medical care to prisoners, a plaintiff must allege facts to support 27 that his constitutional rights were violated as a result of a policy, decision, or custom 28 promulgated or endorsed by the private entity. See *Tsao v. Desert Palace, Inc.*, 698 F.3d 1 1128, 1138-39 (9th Cir. 2012). To state a claim against NaphCare, Centurion, and Centene, 2 Plaintiff must allege that (1) he was deprived of a constitutional right; (2) NaphCare, 3 Centurion, and Centene had a policy or custom; (3) the policy or custom amounted to a 4 deliberate indifference to Plaintiff’s constitutional right; and (4) the policy was the moving 5 force behind the constitutional violation. See *Burke v. County of Alameda*, 586 F.3d 725, 6 734 (9th Cir. 2009). In addition, if the policy or custom in question is an unwritten one, 7 Plaintiff must allege facts to

support that it is so “persistent and widespread” that it constitutes a “permanent and well settled” practice. *Monell v. Dep’t of Soc. Servs. of City of New York*, 436 U.S. 658, 690-94 (1978) (quoting *Adickes v. S.H. Kress & Co.*, 398 U.S. 10 144, 167-68 (1970)). “Liability for improper custom may not be predicated on isolated or 11 sporadic incidents; it must be founded upon practices of sufficient duration, frequency and 12 consistency that the conduct has become a traditional method of carrying out policy.” 13 *Trevino v. Gates*, 99 F.3d 911, 918 (9th Cir. 1996). 14 Plaintiff sues NaphCare, Centurion, and Centene solely because they were 15 Defendants in *Hunter v. Paul*. These Defendants were dismissed on screening and had no 16 other involvement in *Hunter v. Paul*. Plaintiff therefore fails to state a claim against 17 NaphCare, Centurion, and Centene, and these Defendants will be dismissed. 18 D. Insurance Company Defendants 19 The insurance company Defendants did not act under color of state law, and Plaintiff 20 fails to allege any facts to support that he suffered any injury because of any conduct by 21 the Defendant insurance companies. Plaintiff has named the insurance companies as 22 Defendants solely because they were Defendants in *Hunter v. Paul*. Again, these 23 Defendants were dismissed on screening and had no other involvement in *Hunter v. Paul*. 24 The Court will dismiss Defendants Columbia Casualty Company, Scottsdale Insurance 25 Company, Zurich American Insurance, and Starr Indemnity Insurance Company. 26 E. Legally Malicious or Frivolous Claims 27 The Court finds Plaintiff’s claims are legally malicious or frivolous within the 28 meaning of 28 U.S.C. § 1915A. The purpose of § 1915A is to ensure that the targets of 1 frivolous or malicious suits need not bear the expense of responding.” *Nordstrom v. Ryan*, 2 762 F.3d 903, 920 n.1 (9th Cir. 2014) (internal quote marks omitted). A claim is 3 “frivolous” if it has “no basis in law or fact.” *Andrews v. King*, 398 F.3d 1113, 1121 (9th 4 Cir. 2005) (citation omitted); *Knapp v. Hogan*, 738 F.3d 1106, 1109 (9th Cir. 2013). A 5 claim is “malicious if it was filed with the ‘intention or desire to harm another.’” *Andrews*, 6 398 F.3d at 1121; *Knapp*, 738 F.3d at 1109. 7 The litigation history in *Hunter v. Paul* suggests that Plaintiff has a personal 8 vendetta against Defendant Barnes. Plaintiff, dissatisfied with the Court’s rejections of his 9 attempts to disqualify Defendant Barnes in *Hunter v. Paul*, has turned to filing suit against 10 Barnes with the apparent “intention or desire to harm” Barnes. There is no arguable legal 11 basis for Plaintiff to sue Defendant Barnes for her representation of the Defendants in 12 *Hunter v Paul*, to sue the Defendants whom Barnes represents, or to sue the Defendants 13 who were dismissed on screening. 14 For the foregoing reasons, Plaintiff fails to state a claim in the Complaint, and it will 15 be dismissed. 16 V. Dismissal Without Leave to Amend 17 Federal Rule of Civil Procedure 15(a) provides that leave to amend should be freely 18 granted “when justice so requires.” Fed. R. Civ. P. 15(a). “The court considers five 19 factors in assessing the propriety of leave to amend—bad faith, undue delay, prejudice to 20 the opposing party, futility of amendment, and whether the plaintiff has previously 21 amended the complaint.” *United States v. Corinthian Colleges*, 655 F.3d 984, 995 (9th 22 Cir. 2011) (citing *Johnson v. Buckley*, 356 F.3d 1067, 1077 (9th Cir. 2004)). Although a

23 pro se plaintiff is generally entitled to notice of the deficiencies of his claims and an 24 opportunity to amend, see *Akhtar v. Mesa*, 698 F.3d 1202, 1212 (9th Cir. 2012), the Ninth 25 Circuit in *Corinthian Colleges* explained that leave to amend is not warranted unless the 26 deficiencies “can be cured with additional allegations that are ‘consistent with the 27 challenged pleading’ and that do not contradict the allegations in the original complaint,” 28 655 F.3d at 955 (quoting *Reddy v. Litton Indus., Inc.*, 912 F.2d 291, 296–97 (9th Cir. 1990)). 2 Plaintiff has sued only immune Defendants and Defendants who have no possible 3) involvement in the alleged injury. Moreover, the Court finds Plaintiff's claims are 4| malicious and frivolous within the meaning of 28 U.S.C. § 1915A. Thus, the defects in the 5) Complaint cannot be cured with additional allegations that are “‘consistent with the 6| challenged pleading’ and that do not contradict the allegations” in the Complaint. *Corinthian Colleges*, 655 F.3d at 955. The Court finds further leave to amend would be 8 | futile. The Court will therefore dismiss the Complaint without leave to amend. 9| IT IS ORDERED: 10 (1) Plaintiff’s Application to Proceed In Forma Pauperis (Doc. 9) is granted. 11 (2) As required by the accompanying Order to the appropriate government 12| agency, Plaintiff must pay the \$350.00 filing fee and is not assessed an initial partial filing 13 | fee. 14 (3) | The Complaint (Doc. 1) is dismissed for failure to state a claim pursuant to 28 U.S.C. § 1915A(b)(1), and the Clerk of Court must enter judgment accordingly. 16 (4) The Clerk of Court must make an entry on the docket stating that the 17 | dismissal for failure to state a claim may count as a “strike” under 28 U.S.C. § 1915(g). 18 (5) | The docket shall reflect that the Court, pursuant to 28 U.S.C. § □□□□□□□□ and Federal Rules of Appellate Procedure 24(a)(3)(A), has considered whether an appeal 20 | of this decision would be taken in good faith and certifies that an appeal would not be taken in good faith for the reasons stated in the Order and because there is no arguable factual or 22 | legal basis for an appeal. 23 Dated this 11th day of December, 2025. 24 26 07 _ James A. Teil Org Senior United States District Judge 28