

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Olson v. Hornbrook Community Services District, et al.

Olson · No. 2:19-CV-2127-DC-DMC · Decided May 27, 2025

SUMMARY

The document is amended findings and recommendations from the U.S. District Court for the Eastern District of California concerning defendants’ motion to dismiss Kimberly R. Olson’s first amended complaint. The action asserts federal claims involving voting and due process, the Clean Water Act, the Safe Drinking Water Act, and the Americans with Disabilities Act, as well as California claims concerning public funds, fiduciary duties, water fees, and public records. The magistrate judge recommends that some claims be dismissed while allowing others to proceed.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Dennis M. Cota
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 27, 2025
DOCKET	2:19-CV-2127-DC-DMC
DISPOSITION	other
PROCEDURAL POSTURE	Amended findings and recommendations by a United States magistrate judge on defendants' motion to dismiss the first amended complaint under Federal Rules of Civil Procedure 41(b) and 12(b)(6). The magistrate judge recommends granting the motion in part and denying it in part, subject to review by the assigned district judge.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts material factual allegations as true, construes alleged facts in the light most favorable to the plaintiff, and resolves ambiguities or doubts in the plaintiff's favor, but need not accept legal conclusions unsupported by factual allegations. Pro se pleadings are held to a less stringent standard. The court generally may not consider materials outside the complaint and pleadings, subject to limited exceptions for incorporated or necessarily relied-upon documents and judicially noticeable materials.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

motions to dismiss pleadings civil rights public records ada / disability

PRACTICE AREAS

civil procedure civil rights environmental law disability discrimination municipal law public records remedies

QUESTIONS PRESENTED

1. Whether the first amended complaint states a federal right-to-vote or procedural-due-process claim based on changes to water rates and the nonimposition of availability and standby fees.
2. Whether plaintiff adequately alleged standing and injury in fact for her Clean Water Act claim.
3. Whether plaintiff adequately alleged the notice required for a Safe Drinking Water Act citizen suit.
4. Whether plaintiff adequately pleaded a Title II Americans with Disabilities Act claim based on failure to provide emailed meeting materials and failure to accommodate access to public-records facilities.
5. Whether plaintiff adequately pleaded California claims involving taxpayer injunctive relief, public expenditures, fiduciary duties, nuisance, negligence, Brown Act violations, and California Public Records Act requests.

HOLDINGS

1. For purposes of Rule 12(b)(6), the court accepts material factual allegations as true and construes them favorably to the plaintiff, while disregarding unsupported legal conclusions; it generally may not consider materials outside the pleadings except for recognized incorporated-document and judicial-notice exceptions.
2. The amended complaint fails to state right-to-vote and procedural-due-process claims based on the challenged water-rate increase because plaintiff did not allege that the per-gallon rate failed to remain constant or decrease, and did not allege invidious discrimination or a deprivation of a protected interest.
3. The amended complaint sufficiently states claims based on the alleged deprivation of plaintiff's right to vote on whether availability and standby fees should be waived or imposed, and the related due-process claim may proceed.
4. The amended complaint sufficiently alleges injury in fact for the Clean Water Act claim because plaintiff alleged personal recreational and aesthetic use of affected waterways that was impaired by the challenged conduct.
5. The amended complaint sufficiently alleges the requisite notice for plaintiff's Safe Drinking Water Act claim at the pleading stage.
6. The amended complaint fails to state a Title II ADA claim based on the alleged failure to provide emailed meeting materials because it does not allege that plaintiff was excluded from a specific activity or denied a benefit, or identify how a specific defendant caused such exclusion or denial.

7. The amended complaint sufficiently states a Title II ADA claim based on denial of access to HCSD facilities for physical inspection of public records, allegedly because of plaintiff's disability.
8. Plaintiff adequately pleaded taxpayer standing under California Code of Civil Procedure section 526(a) for claims alleging illegal or wasteful public expenditures, including legal-fee payments, waived or uncollected fees, allegedly unlawful payments, and use of HCSD facilities.
9. The amended complaint sufficiently states the pleaded fiduciary-duty and negligence claims because plaintiff identified HCSD bylaw provisions allegedly establishing duties and liability, including personal liability for unauthorized fee waivers and a private right of action.
10. The amended complaint sufficiently states private nuisance, nuisance per se, and public nuisance claims based on allegations that excessive chlorine in HCSD water damaged plaintiff's property and interfered with community rights.
11. The amended complaint fails to state a Brown Act claim because, despite identifying defendants and alleging notice, it does not identify the unagendized item, explain why closed-session consideration was improper, or explain why the item was illegal.
12. The amended complaint sufficiently states a CPRA claim based on plaintiff's October 3, 2019 email request against the defendants identified in that request, but claims based on other unspecified requests fail under Rule 8.

KEY QUOTATIONS

“Plaintiff was provided the opportunity to amend her complaint, and she did not include any facts to show invidious discrimination.” (at 5)

“Thus, the undersigned will recommend dismissal without leave to amend as to Plaintiff’s ADA claim arising from HCSD’s failure to provide emailed materials.” (at 12)

“Plaintiff was provided the opportunity to amend her complaint, with notice of the deficiency, but failed to do so.” (at 19)

FACTUAL BACKGROUND

Plaintiff alleged that Hornbrook Community Services District and individual defendants violated voting, due process, environmental, drinking-water, disability-access, public-records, and California-law duties concerning water rates, fees, water treatment and distribution, public expenditures, board meetings, and access to records and facilities. She alleged excessive chlorine in distributed water, failures to impose or collect certain fees, payments of legal fees and other public expenditures, and denial of access to public records and facilities as an accommodation for limited mobility. The court evaluated whether the amended allegations stated claims sufficient to survive dismissal.

PROCEDURAL HISTORY

The court previously recommended dismissal of the original complaint for failure to comply with Rule 8. The district judge adopted the recommendation in part, granted leave to amend, and declined to dismiss any portion under Rule 8 with prejudice. Plaintiff filed a first amended complaint, defendants moved to dismiss, and the

magistrate judge issued amended findings and recommendations after vacating the March 29, 2024 findings and recommendations in light of plaintiff's objections.

DISPOSITION

other

CASES CITED

- Erickson v. Pardus, 551 U.S. 89, 93-94 (2007)
- Scheuer v. Rhodes, 416 U.S. 232, 236 (1974)
- Hosp. Bldg. Co. v. Rex Hosp. Trustees, 425 U.S. 738, 740 (1976)
- Barnett v. Centoni, 31 F.3d 813, 816 (9th Cir. 1994) (per curiam)
- Jenkins v. McKeithen, 395 U.S. 411, 421 (1969)
- Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949-50 (2009)
- Haines v. Kerner, 404 U.S. 519, 520 (1972)
- Cooper v. Pickett, 137 F.3d 616, 622 (9th Cir. 1998)
- Branch v. Tunnell, 14 F.3d 449, 453-54 (9th Cir. 1994)
- Lee v. City of Los Angeles, 250 F.3d 668, 688 (9th Cir. 2001)
- Barron v. Reich, 13 F.3d 1370, 1377 (9th Cir. 1994)
- Mobile v. Bolden, 446 U.S. 55 (1980)
- Knappenberger v. City of Phoenix, 566 F.3d 936, 940 (9th Cir. 2009)
- Ingraham v. Wright, 430 U.S. 651, 672 (1977)
- Bd. of Regents v. Roth, 408 U.S. 564, 569 (1972)
- Friends of the Earth, Inc. v. Laidlaw Env't Servs. (TOC), Inc., 528 U.S. 167, 180-81, 183 (2000)
- Whitmore v. Arkansas, 495 U.S. 149, 155 (1990)
- Weinreich v. Los Angeles Cty. Metro. Transp. Auth., 114 F.3d 976, 978 (9th Cir. 1997)
- Akhtar v. Mesa, 698 F.3d 1202, 1212 (9th Cir. 2012)
- Schucker v. Rockwood, 846 F.2d 1202, 1203-04 (9th Cir. 1988)
- Harris v. County of Orange, 682 F.3d 1126, 1132 (9th Cir. 2012)
- Remington v. Mathson, 804 F. App'x 783, 784 (9th Cir. 2020) (unpublished)
- Herzberg v. Cty. of Plumas, 133 Cal. App. 4th 1, 23-24 (2005)
- Green Valley Landowners Ass'n v. City of Vallejo, 241 Cal. App. 4th 425, 441-42 (2015)
- Mendez v. Rancho Valencia Resort Partners, LLC, 3 Cal. App. 5th 248, 262-63 (2016)
- Martinez v. Welk Grp., Inc., 907 F. Supp. 2d 1123, 1134 (S.D. Cal. 2012)
- San Diego Gas & Elec. Co. v. Superior Court, 13 Cal. 4th 893, 937 (1996)
- City of Monterey v. Carrnshimba, 215 Cal. App. 4th 1068, 1086 (2013)
- City of Claremont v. Kruse, 177 Cal. App. 4th 1153, 1163 (2009)
- Citizens for Odor Nuisance Abatement v. City of San Diego, 8 Cal. App. 5th 350, 358 (2017)

- San Diego Unified Port Dist. v. Monsanto Co., 445 F. Supp. 3d 1098, 1106 (S.D. Cal. 2020)
- People ex rel. Gallo v. Acuna, 14 Cal. 4th 1090, 1103-05 (1997)
- Mayall v. USA Water Polo, Inc., 909 F.3d 1055, 1060 (9th Cir. 2018)
- A.B. Concrete Coating, Inc. v. Wells Fargo Bank Nat'l Assoc., 491 F. Supp. 3d 727, 738 (E.D. Cal. 2020)
- Peredia v. HR Mobile Servs., Inc., 25 Cal. App. 5th 680, 687 (2018)
- Vasilenko v. Grace Family Church, 3 Cal. 5th 1077, 1083 (2017)
- Fowler v. City of Lafayette, 46 Cal. App. 5th 360, 366 (2020)
- McLeod v. Vista Unified Sch. Dist., 158 Cal. App. 4th 1156, 1165 (2008)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007)
- Conley v. Gibson, 355 U.S. 41, 47 (1957)
- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)

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