UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Tuck v. Yelp, Inc.

Case No. 3:25-cv-02155-JES-SBC (S.D. Cal. Sept. 5, 2025) · No. 3:25-cv-02155-JES-SBC · Decided September 5, 2025

SUMMARY

The United States District Court for the Southern District of California grants Roy Tuck's motion to proceed in forma pauperis after finding that his financial circumstances prevent him from paying the filing fee. The court allows Tuck's TCPA, FDCPA, and California Rosenthal Fair Debt Collection Practices Act claims to proceed, but dismisses the FDCPA claim under 15 U.S.C. § 1692g, with leave to amend within 30 days.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	James E. Simmons, Jr.
JURISDICTION	United States District Court for the Southern District of California
DECIDED	September 5, 2025
DOCKET	3:25-cv-02155-JES-SBC
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff proceeding pro se filed a civil action asserting claims under the Telephone Consumer Protection Act, the Fair Debt Collection Practices Act, and the California Rosenthal Fair Debt Collection Practices Act, and moved to proceed in forma pauperis. The court considered the IFP application and conducted screening under 28 U.S.C. § 1915(e)(2).
STANDARD OF REVIEW	For IFP screening, the court evaluates whether the complaint is frivolous or malicious, fails to state a claim, or seeks monetary relief from an immune defendant under 28 U.S.C. § 1915(e)(2). The court applies the facial-plausibility pleading standard under Federal Rule of Civil Procedure 8(a)(2), accepting well-pleaded allegations as true and drawing reasonable inferences in Plaintiff's favor.
PRECEDENTIAL VALUE	unpublished

PARTIES Roy Tuck v. Yelp, Inc.

TOPICS

fair debt collection | credit reporting | pleadings | civil procedure | consumer protection

PRACTICE AREAS

Civil procedure | Consumer protection | Debt collection | Telephone Consumer Protection Act

QUESTIONS PRESENTED

1. Whether Plaintiff demonstrated sufficient financial inability to pay the filing fee to proceed in forma pauperis.
2. Whether Plaintiff's TCPA allegations were sufficient to survive screening under 28 U.S.C. § 1915(e)(2).
3. Whether Plaintiff's FDCPA and California Rosenthal Fair Debt Collection Practices Act allegations stated plausible claims sufficient to proceed under § 1915(e)(2).
4. Whether Plaintiff stated a claim under 15 U.S.C. § 1692g by alleging that he disputed the debt in writing without alleging that he requested the name and address of the original creditor.

HOLDINGS

1. A plaintiff may proceed in forma pauperis when the application sufficiently demonstrates that the plaintiff cannot pay the filing fee while affording the necessities of life. Plaintiff's financial submissions established that he could not pay the filing fee, so the court granted IFP status.
2. Plaintiff's allegations that Yelp made numerous automated calls and texts to his cellular telephone, including calls to an emergency cell phone, were sufficient to state a non-frivolous TCPA claim at the § 1915(e)(2) screening stage.
3. Plaintiff's allegations were sufficient to state plausible, non-frivolous claims under the identified FDCPA provisions and, by extension, under California Civil Code § 1788, except for the claim under 15 U.S.C. § 1692g.
4. Plaintiff failed to state a claim under § 1692g because, although he alleged that he disputed the debt in writing, he did not allege that he requested the name and address of the original creditor; the § 1692g claim was dismissed, with leave to amend.

KEY QUOTATIONS

> *"After due consideration and for the reasons set forth below, the Court GRANTS the motion to proceed IFP."* (at 1)

> *"Consequently, Plaintiffs claim under 15 U.S.C. § 1692g fails, and is therefore DISMISSED."* (at 6-7)

> *"The Court further finds that a sua sponte analysis under 28 U.S.C. § 1915(e)(2)(B) provides no barriers to further proceedings, except to the extent that Plaintiff alleges a violation of the FDCPA under 15 U.S.C. § 1692g."* (at 7)

FACTUAL BACKGROUND

Plaintiff alleged that Yelp made more than 53 calls, including approximately 45 calls and 8 texts, many through an automated system, to his emergency cellular telephone. He alleged that the communications were related to collection of a consumer debt, occurred at improper times, continued after he requested cessation, and included allegedly harassing conduct and negative credit reporting concerning a debt he did not owe. For IFP purposes, Plaintiff and his wife reported monthly Social Security Disability income of $1,582, monthly expenses of $1,913, a vehicle valued at $4,000, and $237.40 in a checking account.

PROCEDURAL HISTORY

Plaintiff submitted an application to proceed in forma pauperis and a complaint. The court granted IFP status after finding that Plaintiff could not pay the filing fee. On sua sponte screening, the court found that the TCPA and most FDCPA and Rosenthal Act allegations could proceed, but dismissed the FDCPA claim under 15 U.S.C. § 1692g and allowed Plaintiff thirty days to amend that claim.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. If Plaintiff elects to amend the FDCPA § 1692g claim, he must file an amended complaint within thirty days of the order.

CASES CITED

- Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 339 (1948)
- Escobedo v. Applebees, 787 F.3d 1226, 1234 (9th Cir. 2015)
- United States v. McQuade, 647 F.3d 938, 940 (9th Cir. 1981)
- Temple v. Ellerthorp, 586 F. Supp. 848, 850 (D.R.I. 1984)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)
- Doe I v. Wal-Mart Stores, Inc., 572 F.3d 677, 681 (9th Cir. 2009)
- Satterfield v. Simon & Schuster, Inc., 569 F.3d 946, 954 (9th Cir. 2009)
- Spokeo, Inc. v. Robins, 578 U.S. 330, 342 (2016)
- Tuck v. Am. Accounts & Advisors, Inc., No. 3:19-cv-0671-GPC-NLS, 2019 WL 2514733, at *3, *4 n.3 (S.D. Cal. June 18, 2019)
- Reichman v. Poshmark, Inc., 267 F. Supp. 3d 1278, 1285-86 (S.D. Cal. 2017)
- Robinson v. Managed Accounts Receivable Corp., 654 F. Supp. 2d 1051, 1057 (C.D. Cal. 2009)

INSTRUCTIONS FOR AN AI ASSISTANT
