

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Tatyana Litvinova v. Kaiser Foundation Hospitals, et al.

Litvinova · No. 25-cv-06253-SI · Decided October 21, 2025

SUMMARY

The United States District Court for the Northern District of California grants Kaiser Foundation Hospitals’ motion to dismiss Tatyana Litvinova’s employment-related complaint, largely based on pleading deficiencies and potential LMRA and NLRA preemption. The court dismisses the breach-of-collective-bargaining-agreement claim with leave to replead under LMRA § 301, dismisses the unsafe-workplace claim without leave to amend, and grants leave to amend the remaining claims. Any amended complaint must be filed by November 7, 2025.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Susan Illston
JURISDICTION	United States District Court for the Northern District of California
DECIDED	October 21, 2025
DOCKET	25-cv-06253-SI
DISPOSITION	other
PROCEDURAL POSTURE	Defendant removed plaintiff’s California employment-law action to federal court on the basis of federal-question jurisdiction arising from alleged Section 301 preemption and moved to dismiss under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true and draws reasonable inferences for the plaintiff, but need not accept conclusory allegations, unwarranted factual deductions, or unreasonable inferences. Under Rule 12(b)(1), the plaintiff bears the burden of establishing subject-matter jurisdiction; a factual jurisdictional attack permits review of evidence beyond the pleadings.
PRECEDENTIAL VALUE	unpublished district court order; persuasive authority only

PARTIES

Tatyana Litvinova v. Kaiser Foundation Hospitals, Kaiser Permanente, individual defendants

TOPICS

motions to dismiss

labor law

whistleblower

hostile work environment

civil procedure

PRACTICE AREAS

employment law

labor law

civil procedure

contracts

health law

QUESTIONS PRESENTED

1. Whether the complaint's state-law claims were preempted by Section 301 of the Labor Management Relations Act because their resolution required interpretation of the collective bargaining agreement.
2. Whether the retaliation and harassment allegations based on union advocacy were subject to Garmon preemption under the National Labor Relations Act.
3. Whether the breach-of-collective-bargaining-agreement claim had to be brought under Section 301 and satisfy Section 301's limitations and grievance-exhaustion requirements.
4. Whether the alleged OSHA and California Labor Code section 6400 violations provided a private cause of action.
5. Whether the complaint adequately pleaded the asserted retaliation, harassment, intentional-infliction-of-emotional-distress, and negligent-supervision claims under federal pleading standards.

HOLDINGS

1. A claim alleging breach of a collective bargaining agreement is governed exclusively by federal law under Section 301. The fifth cause of action could not proceed as a state-law contract claim, but plaintiff was granted leave to amend to assert a Section 301 claim.
2. The retaliation right under California Labor Code section 1102.5 exists independently of the CBA and therefore is not preempted at the first step of the Ninth Circuit's Section 301 analysis. The sparse allegations did not permit the court to determine whether the claims were preempted at the second step, so leave to amend was granted.
3. The court could not determine from the sparse complaint whether the FEHA harassment, hostile-work-environment, and failure-to-investigate claims were preempted under Section 301. The claims were also inadequately pleaded because Litvinova did not allege that the harassment was based on a protected characteristic. Leave to amend was granted.
4. Alleged OSHA violations do not themselves create a private cause of action, and California Labor Code section 6400 does not provide a private right of action. The sixth cause of action was dismissed without leave to amend.
5. On the face of the complaint, the retaliation and harassment claims appeared to be preempted under Garmon because the alleged conduct involved protected concerted activity as a union representative.

Plaintiff was granted leave to amend to allege facts showing why the claims were not preempted.

6. The IIED and negligent-supervision-and-retention claims appeared potentially preempted to the extent they were based on the same union-related retaliation and harassment, but plaintiff was granted leave to amend to provide specific facts and explain why the claims were not preempted.

KEY QUOTATIONS

“A suit for breach of a collective bargaining agreement is governed exclusively by federal law under section 301.” (at 7)

“The mere need to consult the terms of the CBA in the course of resolving a state law claim does not necessarily result in preemption.” (at 9)

“OSHA violations “do not themselves constitute a private cause of action.”” (at 13)

“Garmon pre-emption ‘is intended to preclude state interference with the National Labor Relations Board’s interpretation and active enforcement of the integrated scheme of regulation established by the NLRA.’” (at 15)

FACTUAL BACKGROUND

Tatyana Litvinova was a nurse employed by Kaiser Foundation Hospitals and acted as a union representative advocating for patient and staff safety. She alleged that after raising concerns about unsafe patient-care conditions, staffing shortages, and violent behavior by a colleague, Kaiser retaliated and harassed her through denial of income-generating shifts, exclusion from training and advancement opportunities, removal from union-related activities, public disparagement, and professional isolation. Her employment was governed by a collective bargaining agreement addressing shifts, wages, overtime, training, advancement, and grievance procedures.

PROCEDURAL HISTORY

Litvinova filed an eight-count complaint in San Francisco Superior Court alleging retaliation, FEHA harassment and failure to investigate, whistleblower violations, breach of contract, unsafe workplace conditions, intentional infliction of emotional distress, and negligent supervision and retention. Kaiser removed the action based on alleged preemption under Section 301 of the Labor Management Relations Act. The district court granted the motion to dismiss, granted leave to amend the first through fourth and seventh through eighth causes of action, dismissed the fifth cause of action with leave to assert a Section 301 claim subject to timeliness and exhaustion allegations, and dismissed the sixth cause of action without leave to amend.

DISPOSITION

other

CASES CITED

- *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)

- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Usher v. City of Los Angeles, 828 F.2d 556, 561 (9th Cir. 1987)
- In re Gilead Sciences Securities Litigation, 536 F.3d 1049, 1055 (9th Cir. 2008)
- Lee v. City of Los Angeles, 250 F.3d 668, 688-89 (9th Cir. 2001)
- Kokkonen v. Guardian Life Insurance Co. of America, 511 U.S. 375, 377 (1994)
- Safe Air for Everyone v. Meyer, 373 F.3d 1035, 1039 (9th Cir. 2004)
- Caterpillar Inc. v. Williams, 482 U.S. 386, 393 (1987)
- Jimeno v. Mobil Oil Corp., 66 F.3d 1514, 1526 n.6 (9th Cir. 1995)
- Cramer v. Consolidated Freightways, Inc., 255 F.3d 683, 689 (9th Cir. 2001) (en banc)
- Matson v. United Parcel Service, Inc., 840 F.3d 1126, 1132, 1134 (9th Cir. 2016)
- Allis-Chalmers Corp. v. Lueck, 471 U.S. 202, 220 (1985)
- Burnside v. Kiewit Pacific Corp., 491 F.3d 1053, 1059 (9th Cir. 2007)
- Humble v. Boeing Co., 305 F.3d 1004, 1011 (9th Cir. 2002)
- Livadas v. Bradshaw, 512 U.S. 107, 124 (1994)
- Audette v. International Longshoremen's and Warehousemen's Union, 195 F.3d 1107, 1112-13 (9th Cir. 1999)
- Hayden v. Reickerd, 957 F.2d 1506, 1507 (9th Cir. 1992)
- Roby v. McKesson Corp., 47 Cal. 4th 686, 706 (2009)
- Lawler v. Montblanc North America, LLC, 704 F.3d 1235, 1244 (9th Cir. 2013)
- State Department of Health Services v. Superior Court, 31 Cal. 4th 1026, 1049 (2003)
- Est. of Macis v. Waste Management of Alameda County, Inc., No. 13-cv-04648, 2014 WL 334206 (N.D. Cal. Jan. 29, 2014)
- Turner-Gray v. AMN Healthcare Inc., No. 23-CV-05507-SI, 2025 WL 50419, at *3 (N.D. Cal. Jan. 7, 2025)
- San Diego Building Trades Council, Millmen's Union, Local 2020 v. Garmon, 359 U.S. 236, 244 (1959)
- Chamber of Commerce of the United States v. Brown, 554 U.S. 60, 65 (2008)
- Golden State Transit Corp. v. City of Los Angeles, 475 U.S. 608, 613 (1986)
- Moreno v. UtiliQuest, LLC, 29 F.4th 567, 573-74 (9th Cir. 2022)
- Retail Property Trust v. United Brotherhood of Carpenters & Joiners of America, 768 F.3d 938, 950, 952 (9th Cir. 2014)
- International Longshoremen's Association, AFL-CIO v. Davis, 476 U.S. 380, 395 (1986)
- Avina v. United States, 681 F.3d 1127, 1131 (9th Cir. 2012)
- Kroeger v. L3 Technologies, Inc., Case No. 2:17-cv-08489-JFW-AGR, 2018 WL 1357363, at *3-4 (C.D. Cal. Mar. 15, 2018)
- Simo v. Union of Needletrades, Industrial & Textile Employees, Southwest District Council, 322 F.3d 602, 621 (9th Cir. 2003)
- Alexander v. Community Hospital of Long Beach, 46 Cal. App. 5th 238, 264 (2020)
- Mendoza v. City of Los Angeles, 66 Cal. App. 4th 1333, 1339 (1998)
- Doe v. Capital Cities, 50 Cal. App. 4th 1038, 1054 (1996)

- *Mayes v. Kaiser Foundation Hospital*, 917 F. Supp. 2d 1074, 1082-86 (E.D. Cal. 2013)

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