

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Domeneque Perry v. Tiffany & Bosco PA

Perry · No. CV-26-00502-PHX-SMB · Decided February 20, 2026

SUMMARY

The United States District Court for the District of Arizona screened Domeneque Perry’s complaint against Tiffany & Bosco, P.A. under 28 U.S.C. § 1915(e)(2)(B). The court dismissed claims alleging retaliation under OSHA, Title VII, Arizona law, and a failure to prevent retaliation because the complaint did not plausibly establish protected activity, causation, or another legal basis for relief. The court granted leave to amend within 30 days and granted Perry’s application to proceed in forma pauperis.

CASE DETAILS

COURT	United States District Court for the District of Arizona
JURISDICTION	United States District Court for the District of Arizona
DECIDED	February 20, 2026
DOCKET	CV-26-00502-PHX-SMB
DISPOSITION	dismissed
PROCEDURAL POSTURE	The court screened Plaintiff's complaint under 28 U.S.C. § 1915(e)(2) (B) after granting her application to proceed in forma pauperis. The court dismissed the complaint for failure to state a claim, but granted leave to amend.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915(e)(2)(B), the court must dismiss an in forma pauperis action that is frivolous or malicious, fails to state a claim, or seeks monetary relief from an immune defendant. Under Rule 8(a), the complaint must provide a short and plain statement showing entitlement to relief, and under the plausibility standard the pleaded facts must permit a reasonable inference of liability.
PRECEDENTIAL VALUE	nonprecedential district-court order
PARTIES	Domeneque Perry v. Tiffany & Bosco PA

TOPICS

- retaliation
- title vii
- wrongful termination
- pleadings
- civil procedure

PRACTICE AREAS

employment law

civil rights

civil procedure

QUESTIONS PRESENTED

1. Whether the complaint stated a viable retaliation claim under OSHA.
2. Whether the complaint plausibly stated a Title VII retaliation claim based on reports of indoor vaping and other alleged protected activity.
3. Whether the complaint plausibly stated an Arizona wrongful-termination or retaliatory-discharge claim under the Arizona Employment Protection Act.
4. Whether the complaint stated an independent claim for failure to prevent retaliation.
5. Whether Plaintiff should be granted leave to amend.

HOLDINGS

1. OSHA does not provide Plaintiff with a private right of action, so the OSHA retaliation claim fails to state a claim.
2. Plaintiff failed to state a Title VII retaliation claim because she did not plausibly allege protected activity, a causal connection between the alleged activity and termination, or that the alleged activity was the but-for cause of her termination.
3. Plaintiff failed to state a wrongful-termination or retaliatory-discharge claim under the Arizona Employment Protection Act because she did not identify the Arizona law allegedly violated and did not plausibly allege that her internal report qualified as a statutory disclosure.
4. Plaintiff failed to state a claim for failure to prevent retaliation because she identified no legal basis for the claim and gave no reason why it should be treated differently from her deficient Title VII and AEPA claims.
5. Leave to amend should be granted because the pleading might be cured by alleging additional facts.

KEY QUOTATIONS

“A complaint “must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.”” (at 1)

““Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.”” (at 2)

““An individual engages in protected activity under Title VII when the individual has a reasonable belief that the employment practice being opposed is prohibited under Title VII.”” (at 3)

““Title VII retaliation claims must be proved according to traditional principles of but-for causation”” (at 3)

““[A] district court should grant leave to amend even if no request to amend the pleading was made, unless it determines that the pleading could not possibly be cured by the allegation of other facts.”” (at 5)

FACTUAL BACKGROUND

Plaintiff alleged that she worked for Tiffany & Bosco, P.A. from September 2024 until her termination in September 2025. Before her termination, she reported to management that she had witnessed repeated indoor vaping in the office. She alleged that the defendant terminated her in retaliation for that report and asserted OSHA retaliation, Title VII retaliation, wrongful termination in violation of public policy, and failure to prevent retaliation.

PROCEDURAL HISTORY

Plaintiff filed a complaint asserting OSHA retaliation, Title VII retaliation, wrongful termination in violation of public policy, and failure to prevent retaliation, along with an application to proceed in forma pauperis. Following statutory screening, the court granted in forma pauperis status, dismissed the complaint with leave to file a First Amended Complaint within thirty days, and directed that any amended complaint be screened before service.

DISPOSITION

dismissed

CASES CITED

- Clark v. Wells Fargo Bank, 669 F. App'x 362, 363 (9th Cir. 2016)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 556, 557, 570 (2007)
- Bond v. Wells Fargo Bank NA, 782 F. Supp. 3d 743, 752 (D. Ariz. 2025)
- Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57, 63 (1986)
- Gage v. Mayo Clinic, 707 F. Supp. 3d 870, 883 (D. Ariz. 2023)
- Gardner v. Braithwaite, 607 F. Supp. 3d 1106, 1120 (S.D. Cal. 2022)
- University of Texas Southwestern Medical Center v. Nassar, 570 U.S. 338, 360 (2013)
- Worldwide Jet Charter, Inc. v. Christian, 527 P.3d 352, 356 (Ariz. Ct. App. 2023)
- Harper v. State, 388 P.3d 552, 554 (Ariz. Ct. App. 2016)
- Murar v. AutoNation Inc., No. CV-19-05793-PHX-MTL, 2021 WL 3912849, at *5 (D. Ariz. Sep. 1, 2021)
- Lopez v. Smith, 203 F.3d 1122, 1127 (9th Cir. 2000)