

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Amin v. Momand

Amin v. Momand · No. 2:24-cv-03557-TLN-SCR · Decided April 4, 2025

OPINION

(PS) Amin v. Momand

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 NAJIBULLA AMIN, No. 2:24-cv-03557-TLN-SCR

12 Plaintiff,

13 v. FINDINGS AND RECOMMENDATIONS

14 DAMAN MOMAND, et al., 15 Defendants. 16 17 Plaintiff proceeds pro se in this matter,
which is referred to the undersigned pursuant to 18 Local Rule 302(c)(21). Before the Court is
Defendants’ Motion to Dismiss (ECF No. 10 & 12) 19 which seeks to dismiss the complaint for
lack of subject matter jurisdiction and for failure to state 20 a claim. Opposition and reply briefs
have been filed. ECF Nos. 13 & 14. On April 3, 2025, 21 Plaintiff failed to appear at a hearing on
Defendant’s motion. The Court recommends that the 22 Motion to Dismiss be GRANTED
without leave to amend. 23 I. Background and Procedural History 24 The Complaint was filed on
December 18, 2024. ECF No. 1. Plaintiff alleges that 25 jurisdiction is based on diversity of
citizenship and that Defendants owe him \$37,234. Id. at 5. It 26 appears that Plaintiff alleges
Defendants made a false report that Plaintiff refused a drug and 27 1 The motion was filed twice,
as it was improperly noticed before Judge Nunley and was required 28 to be re-noticed before the
undersigned. ECF No. 11. 1 alcohol test which resulted in Plaintiff’s truck-driving license being
suspended for three months. 2 Id. Attached to the Complaint are some pay stubs as well as a
“personal statement” from a 3 purported witness. Id. at 14. The statement claims that Defendant
Mr. Momand fired Plaintiff 4 and then made a false report about him to the Federal Motor Carrier
Safety Administration 5 (“FMCSA”). Id. The statement claims Defendants withheld Plaintiff’s
wages, and wages of 6 other drivers. Id. Plaintiff attaches additional affidavits with similar
information, though much of 7 it vague. Id. at 15-18. There is also a purported unsigned statement
from Plaintiff. Id. at 19-20. 8 It states Defendants withheld a final paycheck in the amount of
\$4,000 and made a false report to 9 FMCSA, which resulted in Plaintiff being unable to work for
three months. 10 II. Legal Standard for Motion to Dismiss Under Rule 12(b)(1) 11 A motion under

Rule 12(b)(1) challenges the court's subject-matter jurisdiction over the 12 action. Such jurisdictional challenge can be either facial or factual. *Safe Air for Everyone v. 13 Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004). "In a facial attack, the challenger asserts that the 14 allegations contained in a complaint are insufficient on their face to invoke federal jurisdiction. 15 By contrast, in a factual attack, the challenger disputes the truth of the allegations that, by 16 themselves, would otherwise invoke federal jurisdiction." *Id.* In resolving a factual attack on 17 jurisdiction, the court may review evidence beyond the complaint without converting the motion 18 to dismiss into a motion for summary judgment. *Id.* If a facial challenge is made, the court 19 presumes the truth of a plaintiff's allegations and draws all reasonable inferences therefrom. 20 *Williams v. A&M Bros, LLC*, 2023 WL 4747481 (E.D. Cal. July 25, 2023) (citation and quotation 21 omitted). 22

III. Legal Standard on a Motion to Dismiss under Rule 12(b)(6) 23 The purpose of a motion to dismiss pursuant to Rule 12(b)(6) is to test the legal 24 sufficiency of the complaint. *N. Star Int'l v. Ariz. Corp. Comm'n*, 720 F.2d 578, 581 (9th Cir. 25 1983). "Dismissal can be based on the lack of a cognizable legal theory or the absence of 26 sufficient facts alleged under a cognizable legal theory." *Balistreri v. Pacifica Police Dep't*, 901 27 F.2d 696, 699 (9th Cir. 1990). A plaintiff is required to allege "enough facts to state a claim to 28 relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). "A 1 claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw 2 the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. 3 Iqbal*, 556 U.S. 662, 678 (2009). 4 In determining whether a complaint states a claim on which relief may be granted, the 5 court accepts as true all well-pleaded factual allegations in the complaint and construes the 6 allegations in the light most favorable to the plaintiff. *Walker v. Fred Meyer, Inc.*, 953 F.3d 1082, 7 1086 (9th Cir. 2020). However, the court need not assume the truth of legal conclusions cast in 8 the form of factual allegations. *Paulsen v. CNF, Inc.*, 559 F.3d 1061, 1071 (9th Cir. 2009). 9 While Rule 8(a) does not require detailed factual allegations, "it demands more than an 10 unadorned, the-defendant-unlawfully-harmed-me accusation." *Iqbal*, 556 U.S. at 678. A 11 pleading is insufficient if it offers mere "labels and conclusions" or "a formulaic recitation of the 12 elements of a cause of action." *Twombly*, 550 U.S. at 555; see also *Iqbal*, 556 U.S. at 678 13 ("Threadbare recitals of the elements of a cause of action, supported by mere conclusory 14 statements, do not suffice."). It is inappropriate to assume that the plaintiff "can prove facts that 15 it has not alleged or that the defendants have violated the ... laws in ways that have not been 16 alleged." *Associated Gen. Contractors of Cal., Inc. v. Cal. State Council of Carpenters*, 459 U.S. 17 519, 526 (1983). 18

IV. Analysis 19 Defendants move to dismiss Plaintiff's Complaint on two primary grounds: 1) the Court 20 lacks subject matter jurisdiction because the amount in controversy is not met for purposes of 21 diversity of citizenship jurisdiction; and 2) Plaintiff fails to state a claim. ECF No. 12 at 2. 22 Defendants' jurisdictional challenge is facial – it argues that jurisdiction is not established, even 23 taking the allegations in the Complaint as true. Alternatively, Defendants move for more definite 24 statement pursuant to Rule 12(e). Rule 12(e) allows for a motion for

more definite statement 25 when a complaint is “so vague or ambiguous that the party cannot reasonably prepare a 26 response.” Fed. R. Civ. P. 12(e). If the court issues an order requiring a more definite statement, 27 and the order is not complied with, the court may strike the pleading. Id.; see also *McHenry v. 28 Renne*, 84 F.3d 1172, 1177 (9th Cir. 1996). 1 A. Subject Matter Jurisdiction 2 The Complaint does not satisfy the amount-in-controversy requirement for diversity 3 jurisdiction. It alleges damages of just \$37,234. ECF No. 12 at 5.2 This fails to meet the 4 requirement of more than \$75,000 provided by 28 U.S.C. § 1332(a). 5 When a complaint is filed initially in federal court, as it was here, “the amount in 6 controversy is determined from the face of the pleadings.” *Geographic Expeditions, Inc. v. Estate 7 of Lhotka*, 599 F.3d 1102, 1106 (9th Cir. 2010). The amount alleged in the complaint controls so 8 long as the claim is made in good faith. Id. 9 As Defendants note, Plaintiff’s opposition brief does not argue that the amount-in- 10 controversy requirement is met. ECF No. 14 at 2. Plaintiff’s opposition states that the damages 11 he claims are \$4,000 in withheld funds and three months of lost wages for when Plaintiff could 12 not work due to the false report to FMCSA. ECF No. 13 at 1. Plaintiff further states that 13 Defendant Mr. Momand “added over \$70,000 on my 1099” causing him to pay more taxes. ECF 14 No. 13 at 2. There is no suggestion of damages that might exceed \$75,000. “The Court cannot 15 exercise jurisdiction in this matter [unless] Plaintiff alleges in good faith that the aggregate 16 amount in controversy exceeds the statutory minimum.” *Rivera v. Countrywide Home Loans*, No. 17 15-cv-6086-GW (FFMX), 2015 WL 12781238, at *2 (C.D. Cal. Nov. 12, 2015); see also U.S. 18 Pub. v. People in U.S., No. 24-cv-0369-BAS-VET, 2024 WL 1685215, at *1 (S.D. Cal. Apr. 18, 19 2024) (finding diversity jurisdiction lacking where “[p]laintiffs fail[ed] to plead the amount in 20 controversy in this case exceeds \$75,000 and fail[ed] to allege any facts that could reasonably 21 establish this threshold amount in controversy”). 22 The only question is whether Plaintiff should be granted leave to amend. The fact that 23 Plaintiff has not pleaded any particular cause of action hinders meaningful evaluation of whether 24 he could, through amendment, exceed the \$75,000 requirement. “Dismissal without leave to 25 amend is improper unless it is clear ... that the complaint could not be saved by any amendment.” 26 *Thinket Ink Info. Res., Inc. v. Sun Microsystems, Inc.*, 368 F.3d 1053, 1061 (9th Cir. 2004). It is 27 2 Page references herein are to the number generated by the Court’s CM/ECF system and 28 appearing on the upper right corner of the page. 1 not inconceivable that Plaintiff could plead causes of action, whether torts or violation of 2 employment-related laws, that would allow Plaintiff to make a good faith claim of more than 3 \$75,000 in damages.³ Accordingly, on this first motion to dismiss, and in light of the leniency to 4 be accorded to plaintiffs representing themselves, it is not so clear that amendment would be 5 futile such as to preclude leave to amend. Cf. *Seymour v. Mut. of N.Y. Life Ins. Co.*, No. 20-cv- 6 7578 PA (JEMX), 2021 WL 4497502, at *2 (C.D. Cal. Mar. 1, 2021) (“[A] district court may, 7 and should, grant leave to amend when it appears that subject matter jurisdiction may exist—even 8 though the [complaint] inadequately alleges jurisdiction.”); *Prout v. Costco*, No. 24-cv-703 JLS 9 (DEB), 2024 WL 2060143, at *3 (S.D. Cal. May 8, 2024) (granting leave to amend

for failure to 10 satisfy amount-in-controversy requirement, among other defects, even though
“[t]he Complaint 11 does not contain an alleged amount in controversy, but instead asserts only
that Plaintiff suffered 12 from ‘bumps,’ ‘bruises,’ and emotional distress.’”). The undersigned
accordingly recommends 13 dismissal for lack of subject matter jurisdiction, but with leave to
amend. 14 B. Failure to State a Claim 15 Defendant also argues that the Complaint lacks a
cognizable legal theory. ECF No. 12 at 16 6. Regarding the allegations of a false report to
FMCSA, Defendant argues it is unclear whether 17 Plaintiff is alleging an intentional act or
negligence. 18 As to Plaintiff’s claim of failure to provide a final paycheck, Defendants argue that
19 Plaintiff has not alleged he was an employee of either Defendant. ECF No. 12 at 7. Defendants
20 argue that “defenses and potential liability under a wage claim are different than those under a
21 breach of contract or common count claim,” and they cannot respond without clearer
allegations.

22 Id. at 8. Thus, Defendants argue alternatively that the Court order a more definite statement
23 under Fed. R. Civ. P. 12(e). 24 /// 25 26 3 Plaintiff states that Defendants warned him they
would destroy his life, which he contends they did by making a false report to FMCSA which led
to a 3-month loss of work. ECF No. 1 at 5. 27 Plaintiff also states Defendants refused to pay him
his final paycheck. Id. Plaintiff also attaches a “Lease Agreement” between himself and Defendant
Momand Trucking, Inc. (ECF No. 1 at 28), 28 but it doesn’t appear that he is alleging breach of
contract.] As noted above, the Complaint is brief and does not contain clearly delineated causes of
2 || action. Accordingly, the Complaint should be dismissed for failure to state a claim. Plaintiff 3 ||
should be granted leave to amend to specifically identify what law or laws he believes Defendants
4 || violated and/or what torts or other legal wrongs he believes they committed.

5 V. CONCLUSION

6 For the foregoing reasons, IT IS HEREBY RECOMMENDED: 7 1. Defendant’s Motion to
Dismiss (ECF Nos. 10 & 12) be GRANTED, with leave to 8 amend; and, 9 2. Plaintiff be allowed
21 days to file a First Amended Complaint. 10 These findings and recommendations will be
submitted to the United States District 11 | Judge assigned to the case, pursuant to the provisions
of 28 U.S.C. § 636(b)(1). Within fourteen 12 || days after being served with these findings and
recommendations, either party may file written 13 | objections with the court. The document
should be captioned “Objections to Magistrate Judge’s 14 | Findings and Recommendations.” The
parties are advised that failure to file objections within the 15 | specified time may result in waiver
of the right to appeal the district court’s order. Martinez v. 16 | Yist, 951 F.2d 1153 (9th Cir. 1991).
17 | DATED: April 3, 2025. 18 19 21

SEAN C. RIORDAN

22 UNITED STATES MAGISTRATE JUDGE

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