

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Kindermann v. Merz North America, Inc.

Case No. 3:25-cv-16-CAB-SBC (S.D. Cal. Apr. 24, 2025) · No. 3:25-cv-16-CAB-SBC · Decided April 24, 2025

SUMMARY

The court granted Defendants’ motion to dismiss the third through seventh causes of action in Ian Kindermann’s first amended complaint, including claims concerning unpaid wages, inaccurate wage statements, breach of contract, and breach of the implied covenant of good faith and fair dealing. The claims against Defendant Patrick Urban were also dismissed with leave to amend, while the initial motion to dismiss was denied as moot because the amended complaint superseded the original complaint. Plaintiff was granted until May 8, 2025, to amend.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Cathy Ann Bencivengo
JURISDICTION	United States District Court for the Southern District of California
DECIDED	April 24, 2025
DOCKET	3:25-cv-16-CAB-SBC
DISPOSITION	other
PROCEDURAL POSTURE	Defendants removed the action from California state court and moved to dismiss the first amended complaint under Federal Rule of Civil Procedure 12(b)(6).
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true and construes them in the plaintiff’s favor, but need not accept legal conclusions, conclusory allegations, unwarranted deductions of fact, or unreasonable inferences. The complaint must contain sufficient factual matter to state a facially plausible claim for relief.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- motions to dismiss
- breach of contract
- wage and hour
- employment law
- civil procedure

PRACTICE AREAS

employment law

contract law

civil procedure

QUESTIONS PRESENTED

1. Whether the first amended complaint adequately pleaded a breach of contract claim based on Merz's compensation plans and alleged sales deferments and quota changes.
2. Whether the failure of the breach of contract claim required dismissal of the implied covenant of good faith and fair dealing claim.
3. Whether Plaintiff adequately pleaded claims for unpaid wages and failure to pay wages allegedly due at separation.
4. Whether Plaintiff adequately pleaded a claim for inaccurate wage statements under California Labor Code section 226.
5. Whether Plaintiff adequately pleaded claims against Patrick Urban.
6. Whether Defendants' motion to dismiss the original complaint became moot after Plaintiff filed the first amended complaint.

HOLDINGS

1. A breach of contract claim was inadequately pleaded because Plaintiff did not identify the specific contract or adequately allege the terms or substance of the contractual provision governing the alleged sales deferments and quota changes.
2. Because Plaintiff failed to adequately plead a breach of contract claim, his claim for breach of the implied covenant of good faith and fair dealing also failed.
3. Plaintiff failed to adequately plead that Merz withheld wages that were actually due, because his entitlement to additional commissions depended on whether the challenged sales deferments and quota changes violated an agreement that Plaintiff had not sufficiently pleaded.
4. Plaintiff failed to state a claim under California Labor Code section 226 because he did not identify at least one inaccurate wage statement or specify the particular inaccuracies.
5. All claims against Patrick Urban were dismissed because the complaint's allegation that he participated in implementing the challenged accounting practices was wholly conclusory and unsupported by additional facts.
6. The motion to dismiss the original complaint was denied as moot because the first amended complaint superseded the original complaint and rendered it without legal effect.

KEY QUOTATIONS

“To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” (at 2)

“A breach of contract claim under California law requires four elements: (1) the existence of the contract, (2) plaintiff’s performance or excuse for nonperformance, (3) defendant’s breach, and (4) the resulting damages

to plaintiff.” (at 3)

“the general rule is that an amended complaint supersedes the original complaint and renders it without legal effect.” (at 7)

FACTUAL BACKGROUND

Ian Kindermann worked as a sales representative for Merz from 2019 through 2024 under compensation plans involving commissions and sales quotas. He alleged that Merz changed accounting practices and quota calculations, causing sales to be deferred and quotas to become unattainable, resulting in approximately \$175,000 in unpaid commissions. He also alleged inaccurate wage statements, unlawful withholding of wages at separation, and that Merz executive Patrick Urban participated in the challenged practices.

PROCEDURAL HISTORY

Plaintiff filed the original complaint in the Superior Court of the State of California. After removal, Defendants moved to dismiss the original complaint, but Plaintiff filed a first amended complaint. The court denied the initial motion as moot, granted Defendants' second motion to dismiss the third through seventh causes of action, dismissed all claims against Defendant Patrick Urban with leave to amend, and allowed Plaintiff until May 8, 2025, to file another amended complaint.

DISPOSITION

other

CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Daniels-Hall v. Nat'l Educ. Ass'n, 629 F.3d 992, 998 (9th Cir. 2010)
- Knieval v. ESPN, 393 F.3d 1068, 1072 (9th Cir. 2005)
- Oasis W. Realty, LLC v. Goldman, 51 Cal. 4th 811, 821 (2011)
- Casa Bella Recovery Int'l, Inc. v. Humana Inc., No. SACV 17-01801 AG (JDEx), 2017 WL 6030260, at *3 (C.D. Cal. Nov. 27, 2017)
- Young v. Facebook, Inc., 790 F. Supp. 2d 1110, 1117 (N.D. Cal. 2011)
- N. Cnty. Commc'ns Corp. v. Verizon Glob. Networks, Inc., 685 F. Supp. 2d 1112, 1122 (S.D. Cal. 2010)
- McKell v. Washington Mut., Inc., 142 Cal. App. 4th 1457, 1489 (2006)
- Iglesia Cristiana Luz Y Verdad v. Church Mut. Ins. Co., No. 15-CV-05621-RMW, 2016 WL 692839, at *4 (N.D. Cal. Feb. 19, 2016)
- San Diego Hous. Comm'n v. Indus. Indem. Co., 80 Cal. Rptr. 2d 393, 403 (Cal. Ct. App. 1998)
- Marks v. UMG Recordings, Inc., No. 22-55453, 2023 WL 4532774, at *3 (9th Cir. July 13, 2023)
- Diehl v. Starbucks Corp., No. 12-CV-2432 AJB (BGS), 2013 WL 12108658, at *6 (S.D. Cal. Oct. 16, 2013)

- Pellegrini v. Huyssen, Inc., No. 3:17-CV-00135-CAB-JMA, 2017 WL 2908794, at *11 (S.D. Cal. July 7, 2017)
- Sauer v. Prudential Ins. Co. of Am., No. 2:11-CV-08699-JHN-RZ, 2011 WL 5117772, at *2 (C.D. Cal. Oct. 28, 2011)
- Dawson v. One Call Medical, Inc., No. 3:20-CV-01188-LAB-KSC, 2021 WL 5513516, at *6 (S.D. Cal. Sept. 10, 2021)
- Salois v. Medifast, Inc., No. 17-CV-1810-GPC (NLS), 2018 WL 1083466, at *6 (S.D. Cal. Feb. 28, 2018)
- Silva v. U.S. Bancorp, No. 5:10-CV-1854-JHN, 2011 WL 7096576, at *3 (C.D. Cal. Oct. 6, 2011)
- Lacey v. Maricopa Cnty., 693 F.3d 896, 927 (9th Cir. 2012) (en banc)
- Price v. Synapse Group, Inc., No. 16-CV-01524-BAS-BLM, 2016 WL 9344094, at *1 (S.D. Cal. Sept. 6, 2016)
- Diaz v. Grill Concepts Servs., Inc., 23 Cal. App. 5th 859 (2018)