

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

K. Phillip Taylor v. The Perfect Spot et al.

Taylor v. The Perfect Spot · No. 9:29-cv-00398-SVW-DTB · Decided March 5, 2025

SUMMARY

The United States District Court for the Central District of California ordered the parties to submit a joint status report addressing remedial measures concerning alleged ADA barriers and their intentions regarding summary judgment. The Court also ordered the plaintiff to show cause why it should exercise supplemental jurisdiction over the Unruh Act and other state-law claims, including identifying the statutory damages sought and submitting declarations addressing high-frequency-litigant status. The order warns that failure to respond may result in dismissal of the action or state-law claims.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Stephen V. Wilson
JURISDICTION	United States District Court, Central District of California
DECIDED	March 5, 2025
DOCKET	9:29-cv-00398-SVW-DTB
DISPOSITION	other
PROCEDURAL POSTURE	The district court issued an order to show cause and ordered the parties to submit a joint status report before the initial status conference in an action asserting claims under Title III of the Americans with Disabilities Act and related state-law claims.
STANDARD OF REVIEW	For supplemental jurisdiction, the court must consider the values of judicial economy, convenience, and comity and may decline jurisdiction under 28 U.S.C. § 1367(c). The order did not apply a standard of review to a decided motion.
PRECEDENTIAL VALUE	Nonprecedential district-court order; procedural order to show cause and order for joint status report.
PARTIES	K. Phillip Taylor v. The Perfect Spot et al.

TOPICS

ada / disability

subject matter jurisdiction

civil procedure

attorney fees

summary judgment

PRACTICE AREAS

Civil procedure

Americans with Disabilities Act

Supplemental jurisdiction

Attorney's fees

QUESTIONS PRESENTED

1. Whether remedial measures eliminating alleged ADA barriers could moot plaintiff's Title III ADA claim if the barriers could not reasonably be expected to recur.
2. Whether the court should exercise supplemental jurisdiction over plaintiff's Unruh Act and other state-law claims if the federal ADA claim becomes moot.
3. Whether plaintiff would be entitled to nominal damages or attorney's fees if the ADA claim were mooted and dismissed before trial.

HOLDINGS

1. A defendant's voluntary removal of alleged ADA barriers may moot the plaintiff's ADA claim when the barriers have been removed and cannot reasonably be expected to recur.
2. Nominal damages are not available under Title III of the ADA; therefore, pleading nominal damages does not prevent an ADA claim from becoming moot after effective remediation.
3. When an ADA claim is mooted and dismissed at an early stage, the court has discretion to decline supplemental jurisdiction over related state-law claims.
4. When an ADA claim is mooted and dismissed before trial, the plaintiff is not entitled to attorney's fees under the circumstances described in the order.

KEY QUOTATIONS

“a defendant’s voluntary removal of alleged barriers prior to trial can have the effect of mootting a plaintiff’s ADA claim.”

“The supplemental jurisdiction statute “reflects the understanding that, when deciding whether to exercise supplemental jurisdiction, ‘a federal court should consider and weigh in each case, and at every stage of the litigation, the values of judicial economy, convenience, and comity.’”

FACTUAL BACKGROUND

Plaintiff brought an ADA action alleging architectural or other access barriers and apparently asserted an Unruh Act claim and other state-law claims. The court directed defendant to describe measures taken to investigate or remedy the alleged barriers. The order indicates that plaintiff sought or might seek statutory damages and that the court needed information concerning plaintiff's and counsel's status as high-frequency litigants.

PROCEDURAL HISTORY

The action was pending in the Central District of California. Before the initial status conference, the court ordered the parties to report on any remedial measures taken by defendants, the parties' anticipated summary-judgment motions, and plaintiff's position on the alleged barriers. The court also ordered plaintiff to show cause why the court should exercise supplemental jurisdiction over the Unruh Act and other state-law claims and required declarations addressing whether plaintiff and counsel qualify as high-frequency litigants.

DISPOSITION

other

CASES CITED

- Oliver v. Ralphs Grocery Co., 654 F.3d 903, 905 (9th Cir. 2011)
- 4m Cargo Transp., Inc. v. United States, 625 F.3d 1176, 1179 (9th Cir. 2010)
- Hillesheim v. Holiday Stationstores, Inc., 953 F.3d 1059, 1062 (8th Cir. 2020)
- G. v. Fay School, 931 F.3d 1, 11 (1st Cir. 2019)
- Brooke v. A-Ventures, LLC, 2017 WL 5624941, at *5 (D. Ariz. Nov. 22, 2017)
- Buckhannon Board & Care Home, Inc. v. West Virginia Department of Health & Human Resources, 532 U.S. 598 (2001)
- Molski v. Foster Freeze Paso Robles, 267 F. App'x 631, 632 (9th Cir. 2008)
- City of Chicago v. International College of Surgeons, 522 U.S. 156, 173 (1997)
- Carnegie-Mellon University v. Cohill, 484 U.S. 343, 350 (1988)

OPINION

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES - GENERAL Case No. _9:29-cv-00398-SVW-DTB Date MarehS, 2025 Title K. Phillip Taylor v. The Perfect Spot et al Present: The Honorable STEPHEN V. WILSON, U.S. DISTRICT JUDGE Paul M. Cruz N/A Deputy Clerk Court Reporter / Recorder Attorneys Present for Plaintiffs: N/A Attorneys Present for Defendants: N/A Proceedings: ORDER TO SHOW CAUSE AND ORDER FOR JOINT STATUS REPORT It is the policy of this Court to encourage expedient resolution of civil litigation.

Cf Fed. R. Civ. P. 1 (noting that rules of civil procedure should be construed to “secure the just, speedy, and inexpensive determination of every action and proceeding”). In accordance with that policy, the Court reminds the parties that “a defendant’s voluntary removal of alleged barriers prior to trial can have the effect of mootng a plaintiff's ADA claim.” Oliver v. Ralphs Grocery Co., 654 F.3d 903, 905 (9th Cir.

2011). If the defendant in an ADA case removes the alleged barriers and demonstrates that the alleged barriers could not reasonably be expected to arise again, the ADA claim may be dismissed. See *id.*; see also 4m. Cargo Transp., Inc. v. United States, 625 F.3d 1176, 1179 (9th Cir. 2010).

This is true even if a plaintiff pleads nominal damages, because nominal damages are not available under Title III of the ADA.

See *Hillesheim v. Holiday Stationstores, Inc.*, 953 F.3d 1059, 1062 (8th Cir. 2020); *G. v. Fay Sch.*, 931 F.3d 1, 11 (1st Cir. 2019); *Brooke v. A-Ventures, LLC*, 2017 WL 5624941, at *5 (D. Ariz. Nov. 22, 2017). If an ADA claim is mooted and dismissed at an early stage, the Court has the discretion to decline supplemental jurisdiction over state law claims. See *Oliver*, 654 F.3d at 911 (finding no abuse of discretion where district court declined supplemental jurisdiction after ADA claims were moot).

Additionally, if an ADA claim is mooted and dismissed, the plaintiff is not entitled to attorney's fees. See *Buckhannon Bd. & Care Home, Inc. v. W. Va. Dept. of Health & Human Resources*, 532 U.S. 598 (2001) (affirming denial of attorney's fees where ADA claim rendered moot prior to trial); see also Initials of Preparer PMC UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES - GENERAL No, [REDACTED] Date February 13, 2025 Title K. Phillip Taylor v. The Perfect Spot et al Molski v. Foster Freeze Paso Robles, 267 Fed.Appx.

631, 632 (9th Cir. 2008) (citing *Buckhannon*, 532 at 605) (affirming district court's order dismissing ADA claims as moot, dismissing supplemental state claims, and denying attorney's fees). In light of the foregoing, the parties are ORDERED to issue a joint status report at least 7 days prior to the initial status conference.

In that status report, Defendant should describe the measures it has taken to investigate and/or remedy the alleged barriers. If Defendant implemented remedial measures, Plaintiff should state their position regarding those measures. Both parties should state whether and when they intend to move for summary judgment. Further, it appears that Plaintiff has invoked the Court's supplemental jurisdiction to assert state law claims.

See 28 U.S.C. § 1367(a). The supplemental jurisdiction statute "reflects the understanding that, when deciding whether to exercise supplemental jurisdiction, 'a federal court should consider and weigh in each case, and at every stage of the litigation, the values of judicial economy, convenience, and comity.'" *City of Chicago v. Int'l Coll. of Surgeons*, 522 U.S. 156, 173 (1997) (emphasis added) (quoting *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 (1988)).

The Court therefore further ORDERS Plaintiff to show cause in writing why the Court should exercise supplemental jurisdiction over the Unruh Act claim and any other state law claim asserted in the Complaint. See 28 U.S.C. § 1367(c).

In responding to this Order to Show Cause, Plaintiff shall identify the amount of statutory damages plaintiff seeks to recover. Plaintiff and Plaintiff's counsel shall also support their responses to the Order to Show Cause with declarations, signed under penalty of perjury,

providing all facts necessary for the Court to determine if they satisfy the definition of a “high-frequency litigant” as provided by California Civil Procedure Code sections 425.55(b)(1) & (2).

Plaintiff shall file a Response to this Order to Show Cause within 14 days of this order. Failure to timely or adequately respond to this Order to Show Cause may, without further warning, result in the dismissal of the entire action without prejudice or the Court declining to exercise supplemental jurisdiction over the state law claims and the dismissal of any such claims pursuant to 28 U.S.C. § 1367(c).

IT IS SO ORDERED. Initials of Preparer PMC