

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF  
CALIFORNIA

**Lewis v. SF Bay Area Rapid Transist District (BART), et al.**

Lewis · No. 25-cv-00869-RS · Decided June 27, 2025

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OPINION

Lewis v. SF Bay Area Rapid Transist District (Bart)

PER CURIAM.

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7 UNITED STATES DISTRICT COURT

8 NORTHERN DISTRICT OF CALIFORNIA

9

GREGORY S. LEWIS,

10 Case No. 25-cv-00869-RS Plaintiff, 11

v. ORDER GRANTING DEFENDANTS'

12 MOTION TO DISMISS

SF BAY AREA RAPID TRANSIST

13 DISTRICT (BART), et al., 14 Defendants.

15 I. INTRODUCTION

16 Pro se Plaintiff Gregory S. Lewis brings this employment discrimination suit against 17  
Defendants San Francisco Bay Area Rapid Transit District (“BART”) and its employees Trent 18  
Alvarado and Ana Alvarado. He contends Defendants violated the Americans with Disabilities 19  
Act (ADA), Title VII of the Civil Rights Act of 1964 (Title VII), the Age Discrimination in 20  
Employment Act of 1967 (ADEA), the Genetic Information Nondiscrimination Act (GINA), and  
21 the Fair Labor Standards Act (FLSA). He seeks compensatory and punitive damages. 22  
Defendants move to dismiss Plaintiff’s complaint under Federal Rule of Civil Procedure 23 12(b)  
(6), asserting (1) the ADA and Title VII do not authorize individual capacity liability and so 24 the  
claims against the individual defendants fail, and (2) Plaintiff failed to allege facts sufficient to 25  
support ADEA, GINA, FLSA, and ADA discrimination claims against BART. Defendants also 26  
move under Fed. R. Civ. P. 12(f) to strike Plaintiff’s prayer for punitive damages against BART 27  
because it is a public entity. In opposition to Defendant’s motion, Plaintiff voluntarily dismisses 1  
The motion to dismiss is granted. Plaintiff’s request for leave to amend is granted, 2 excepting his  
ADA and Title VII claims against Trevor Alvarado and Ana Alvarado. Claims 3 brought under the  
ADA and Title VII against these individual defendants are dismissed with 4 prejudice.

5 II. BACKGROUND1

6 Plaintiff is a BART electrician currently on unprotected leave. On May 5, 2023, Plaintiff 7

asserts he requested and received intermittent leave under the Family Medical Leave Act of 1993 for recurring back and leg pain. On August 2, 2023, he requested full-time leave under the FMLA. On February 1, 2023, Plaintiff emailed BART Human Resources Representative Ana Alvarado that he was cleared to resume work on February 12, 2023. On February 6, 2023, Plaintiff emailed Ana Alvarado a list of physical restrictions and limitations from his doctor. On February 10, 2023, Plaintiff emailed BART's Acting Superintendent of Power Mechanical to confirm that he could return to work. Plaintiff was placed on the work schedule that evening but alleges this was a scheduling mistake. On February 12, 2023, the Acting Superintendent of Power Mechanical instructed Plaintiff to confirm with human resources that he could resume work. However, that same day, Ana Alvarado emailed Plaintiff that the Acting Superintendent of Power Mechanical stated that they could not accommodate him. In her email, Alvarado scheduled an interactive process meeting with Plaintiff for February 21, 2023. On February 15, 2023, Plaintiff responded to Ana Alvarado, stating he could have completed the work assignment that he mistakenly received on February 10, 2023. Plaintiff provided a list of tasks in the work assignment schedule and explained he could perform them without violating his medical restrictions and limitations. Plaintiff additionally stated he planned to file an ADA complaint. On February 19, 2023, Plaintiff emailed Ana Alvarado again and attached a list of 515 job tasks he believed he could perform even with his restrictions and limitations. Unless otherwise stated, this order accepts well-pled factual allegations made in the complaint as true. Plaintiff contends, without factual support, that these tasks constitute the essential duties for a BART electrician. On February 20, 2023, Ana Alvarado informed Plaintiff that his department determined these 515 job tasks were not the kinds of tasks a BART electrician must perform on a daily basis. Plaintiff countered this finding, arguing that BART electricians must perform monthly, quarterly, and annual maintenance. He then filed a disability discrimination and retaliation complaint on

February 27, 2024, with BART's Civil Rights Equal Employment Opportunity Unit.

The following day, Plaintiff attended an interactive accommodation process meeting with Ana Alvarado. During the meeting, Ana Alvarado did not inquire about Plaintiff's capabilities or the essential task list he had provided. Instead, she gave Plaintiff 90 days to find a job within BART, retire, voluntarily quit, or accept "medical separation," meaning the termination of employment where the employee is unfit to perform the essential functions of his position. Plaintiff was unable to find a new job within BART by June 13, 2024. He communicated this to Ana Alvarado via email that day and stated that he would not voluntarily quit. Alvarado responded that his 90-day job search would end on June 30, 2024. Alvarado then set his deadline to notify BART of his plan for July 24, 2024. On July 17, 2024, Plaintiff emailed Alvarado a list of 1,700 tasks he believed were essential and that he could complete. In response, Alvarado stated Plaintiff must be able to complete all essential tasks, not just those he listed. Plaintiff emailed Alvarado of his decision to proceed with medical separation by the July 20, 2024,

deadline. Alvarado did not respond until August 27, 2024. In her responsive email, 21 Alvarado shared that she passed Plaintiff's file to the Absence Management Unit and that the Unit 22 would be in touch. Plaintiff alleges the Unit did not contact him. On October 30, 2024, Plaintiff 23 received a right to sue letter from the Oakland Equal Employment Opportunity Commission 24 ("EEOC"). 25 On January 27, 2025, Plaintiff filed this suit. Plaintiff appears to allege a single claim for 26 relief—failure to provide a reasonable accommodation under the ADA. However, he lists five 27 statutes in the Complaint's case caption: (1) ADA, (2) Title VII, (3) FLSA, (4) GINA, and (5) 1 ADEA. Plaintiff names BART, Ana Alvarado, and Trent Alvarado as the defendants. He seeks 2 compensatory and punitive damages. 3 On May 12, 2025, Defendants filed this motion to dismiss the Complaint pursuant to Fed. 4 R. Civ. P. 12(b)(6). In his opposition to Defendant's motion, Plaintiff agrees to dismiss Ana 5 Alvarado and Trent Alvarado in their individual capacities. Plaintiff also requests leave to amend 6 his complaint, stating he was not sure whether he wanted to allege violations under ADEA, GINA, 7 and FLSA.

### 8 III. LEGAL STANDARD

9 A complaint must contain a short and plain statement of the claim showing the pleader is 10 entitled to relief. Fed. R. Civ. P. 8(a). While "detailed factual allegations" are not required, a 11 complaint must have sufficient factual allegations to "state a claim to relief that is plausible on its 12 face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic v. Twombly*, 550 U.S. 13 544, 570 (2007)). However, "[t]hreadbare recitals of the elements of a cause of action, supported 14 by mere conclusory statements, do not suffice." *Iqbal*, 556 U.S. at 678. 15 Dismissal under Rule 12(b)(6) may be based on either the "lack of a cognizable legal 16 theory" or on "the absence of sufficient facts alleged" under a cognizable legal theory. *UMG Recordings, Inc. v. Shelter Capital Partners LLC*, 718 F.3d 1006, 1014 (9th Cir. 2013) (internal 18 quotation marks and citation omitted). When evaluating such a motion, courts "accept all factual 19 allegations in the complaint as true and construe the pleadings in the light most favorable to the 20 nonmoving party." *Knievel v. ESPN*, 393 F.3d 1068, 1072 (9th Cir. 2005).

### 21 IV. DISCUSSION

22 Defendants move to dismiss Plaintiff's ADEA, GINA, FLSA and ADA claims. Defendants 23 also move to strike Plaintiff's claim for punitive damages. As a threshold matter, Plaintiff includes 24 factual allegations in his Opposition to the Motion to Dismiss that were not included in his 25 Complaint. These new allegations are not considered. A Rule 12(b)(6) motion to dismiss addresses 26 the four corners of a complaint, not newly raised allegations or evidence. See *Schneider v. 27 California Dep't of Corr.*, 151 F.3d 1194, 1197 (9th Cir. 1998) ("The 'new' allegations contained 1 in the [plaintiff's] opposition motion, however, are irrelevant for Rule 12(b)(6) purposes. In 2 determining the propriety of a Rule 12(b)(6) dismissal, a court may not look beyond the complaint 3 to a plaintiff's moving papers, such as a memorandum in opposition to a defendant's motion to 4 dismiss."). Should Plaintiff wish to include any of the new allegations in his Complaint, he must 5 amend his Complaint. 6 A. Liability of Defendants Ana Alvarado and Trent Alvarado 7 Plaintiff

names BART, Ana Alvarado, and Trent Alvarado as separate defendants in the 8 Complaint. Defendants contend Plaintiff cannot hold Defendants Ana Alvarado and Trent 9 Alvarado individually liable under Title VII and ADA. Plaintiff states he will voluntarily dismiss 10 the individual defendants, but in any case, Defendant is correct. See *Ortez v. Washington County*, 11 88 F.3d 804, 808 (9th Cir. 1996) (affirming the dismissal of Title VII claims against employees in 12 their individual capacities); *Walsh v. Nevada Dep’t of Human Res.*, 471 F.3d 1033, 1038 (9th Cir. 13 2006) (finding that the bar on individual employee liability extends to ADA claims). Defendant’s 14 motion to dismiss with prejudice is granted as to these individual defendants. 15

B. Punitive Damages Prayer 16 Defendants move to strike Plaintiff’s request for punitive damages, arguing this prayer is 17 impermissible because the ADA and Title VII bar recovery of punitive damages from a 18 “government, government agency or political subdivision.” 42 U.S.C. § 1981a(b)(1). 19 BART is a government agency. See, e.g., *George v. Bay Area Rapid Transit*, 577 F.3d 20 1005, 1007 (9th Cir. 2009) (recognizing BART as such). Courts regularly acknowledge the 21 statutory bar on punitive damages against such government employers under ADA and Title VII. 22 See, e.g., *Barnes v. Gorman*, 536 U.S. 181, 189 (2002) (confirming bar on punitive damages 23 against public entities). Accordingly, Defendant’s request to strike Plaintiff’s prayer for punitive 24 damages is granted. 25

C. ADEA, GINA, and FLSA Claims 26 Plaintiff lists the ADEA, GINA, and FLSA in the case caption of his Complaint, but the 27 body of his filing does not mention these statutes at all. In his opposition, Plaintiff concedes that 1 “any mention of or references to ADEA, GINA, and FLSA may not have been intentional.” Dkt. 2 23 at ¶ 2. Defendants argue that these claims must be dismissed because Plaintiff offers nothing 3 “more than labels and conclusions.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). 4 Defendant is correct. 5 Fed. R. Civ. Pro. 8(a)(2) requires “a short and plain statement of the claim showing that the 6 pleader is entitled to relief.” This statement “give[s] the defendant fair notice of what the . . . . 7 claim is and the grounds upon which it rests.” See *Twombly*, 550 U.S. at 555 (quoting *Conley v. 8 Gibson*, 355 U.S. 41, 47 (1957)). Here, Plaintiff has alleged no facts to support any claims under 9 these statutes. To the extent they are alleged at all, Plaintiff’s ADEA, GINA, and FLSA claims are 10 dismissed without prejudice. 11

D. ADA Claim 12 Defendants contend Plaintiff’s ADA claim fails because he has not plausibly alleged a 13 disability, nor has he alleged that he qualifies for a reasonable accommodation under the statutory 14 definition. Both arguments are correct. 15

i. ADA Disability 16 To establish a basis for relief under the ADA Plaintiff must first plausibly allege a 17 “disability,” and more specifically, an impairment “substantially limited one or more major life 18 activities.” 42 U.S.C. § 12102(2)(A). Plaintiff has not met this standard. 19 The ADA defines a “disability” as “a physical or mental impairment that substantially 20 limits one or more major life activities of [the] individual.” *Id.* Major life activities include lifting, 21 bending, communicating, standing, walking, and performing manual tasks. *Id.* at § 12102(2)(A). 22 Whether Plaintiff’s impairment constitutes a substantial limitation depends on its “condition, 23 manner, or duration.” 29 C.F.R. § 1630.2(4). Relevant facts point to

the “difficulty, effort, or time 24 required to perform a major life activity; pain experienced when performing a major life activity; 25 the length of time a major life activity can be performed; and/or the way an impairment affects the 26 operation of a major bodily function.” *Id.* § 1630.2(4) (ii). Plaintiff need not allege that his 27 impairment has “permanent or long-term effects.” See *Shields v. Credit One Bank, N.A.*, 32 F.4th 1 1218, 1224 (9th Cir. 2022). However, if Plaintiff’s impairment lasts less than six months, Plaintiff 2 must plausibly allege that his impairment is “sufficiently severe.” *Id.* at 1225. Here, he failed to do 3 so. Plaintiff merely alleged “recurring back and leg pain,” but no additional facts to specify the 4 condition, manner, or duration of his impairment. Therefore, Plaintiff has failed to state a claim 5 under the ADA. 6 ii. Failure to Accommodate 7 Defendants additionally point out Plaintiff has failed plausibly to allege he is a “qualified 8 individual” under the ADA. Defendants first claim that Plaintiff’s task list does not show that 9 Plaintiff may perform the “essential duties of an electrician.” 10 Plaintiff’s does not allege facts showing that he is a “qualified” individual. Under the 11 ADA, failure to provide a reasonable accommodation is a discriminatory act if: (1) “the employee 12 is a ‘qualified individual,’ (2) the employer receives adequate notice, and (3) a reasonable 13 accommodation is available that would not place an undue hardship on the operation of the 14 employer’s business.” *Snapp v. United Transportation Union*, 889 F.3d 1088, 1095 (9th Cir. 2018) 15 (citing 42 U.S.C. § 12112(b)(5)(A)). 16 A “qualified individual with a disability,” is a person “able to perform the essential 17 functions of the job with or without reasonable accommodation.” *Dark v. Curry Cnty.*, 451 F.3d 18 1078, 1086 (9th Cir. 2006); see also 29 C.F.R. § 1630.2(m)). An essential function is 19 “fundamental” and “does not include marginal functions of the position.” 29 C.F.R. § 20 1630.2(n)(1). Evidence that a function is essential includes “written job descriptions”, “[t]he 21 amount of time spent on the job performing the function”, “[t]he terms of a collective bargaining 22 agreement”, “[t]he work experience of past incumbents in the job”, and more. *Id.* § 1630.2(n) (3). 23 Plaintiff provides two task lists of responsibilities he alleges he could perform. Dkt. 1 at ¶¶ 24 10, 22. However, he does not allege how or why these tasks are fundamental or essential to his 25 position. Without additional facts to support that these tasks indeed constitute “essential 26 functions,” Plaintiff’s allegation is merely a conclusory statement. His lists alone are not sufficient 27 plausibly to allege he may perform the “fundamental job duties” of a BART electrician. See *Iqbal*, 1 556 U.S. at 678 (“recitals of . . . mere conclusory statements, do not suffice” to state a facially 2 plausible claim for relief). 3 Still, Plaintiff alleges some facts supporting a failure to accommodate. The Ninth Circuit 4 requires an employer to engage an employee who requests an accommodation in a good faith 5 interactive accommodation process. *Snapp*, 889 F.3d at 1095 (9th Cir. 2018) (citing *Barnett v. 6 U.S. Air, Inc.*, 228 F.3d 1105, 1115 (9th Cir. 2000)). Good faith engagement in the interactive 7 accommodation process requires the employer to analyze and identify “essential and nonessential” 8 job tasks. See *Barnett*, 228 F.3d at 1115 (citing 29 C.F.R. Pt. 1630, App. § 1630.9). To identify 9 obstacles to job performance, the employer must work with the employee to “discover the precise 10 limitations and the types of accommodations which

would be most effective. The evaluation of 11 proposed accommodations requires further dialogue and an assessment of the effectiveness of each 12 accommodation, in terms of enabling the employee to successfully perform the job.” Id. 13 Here, Plaintiff contends that Ana Alvarado neglected to discuss tasks Plaintiff could 14 perform during his interactive process meeting. Dkt. 1 at ¶ 13. Instead, Plaintiff alleges that Ana 15 Alvarado focused on the “[j]ob [s]earch, [r]etirement, [v]oluntary [q]uitting, or a medical 16 separation.” Id. Plaintiff further contends that he was unable to find another job and that Alvarado 17 was difficult to contact during and after the 90-day interactive process period. Id. at ¶¶ 20 & 27– 18 31. In turn, Plaintiff raises the plausible inference that he navigated this process with little support. 19 Barnett, 228 F.3d at 1114–1115 (finding it crucial that both sides “communicate directly, 20 exchange essential information and neither side . . . delay[s] or obstruct[s] the process.”). 21 However, because there is no “stand-alone” interactive process claim, Plaintiff must first plead 22 that he “qualifies” under the ADA before he may allege problems with the interactive process. See 23 Snapp, 889 F.3d 1095 (discrimination is the outcome of “denying an available and reasonable 24 accommodation.”). For the reasons discussed above, he has not done so. Accordingly, Defendant’s 25 motion to dismiss Plaintiff’s failure to accommodate claim is granted, but Plaintiff will be 26 permitted to amend his complaint. 27

## 1 V. CONCLUSION

2 For the foregoing reasons, the motion to dismiss is granted. Plaintiff's ADA and Title VII 3 claims against individual Defendants Ana Alvarado and Trent Alvarado are dismissed with 4 prejudice. Plaintiff’s other claims are dismissed without prejudice. Plaintiff's prayer for punitive 5 damages is stricken. Should Plaintiff wish to amend his Complaint to address the deficiencies 6 identified in this Order, the amended complaint must be filed within 30 days of this Order. 7 8 9 IT IS SO ORDERED. 10 11 Dated: June 27, 2025 a 12

RICHARD SEEBORG

13 Chief United States District Judge 15 16 = 17 Z 18 19 20 21 22 23 24 25 26 27

28 ORDER GRANTING MOTION TO DISMISS

CASE No. 25-cv-00869-RS