

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

Steven M. Ford v. Sherwin-Williams

Ford · No. 25-1022-DDC-GEB · Decided March 31, 2026

SUMMARY

The United States District Court for the District of Kansas addresses Sherwin-Williams’s motion to dismiss and several motions filed by pro se plaintiff Steven M. Ford. The court dismisses without prejudice claims based on untimely events, the hostile-work-environment and constructive-discharge theories, and the state-law tort claims, while allowing a Title VII retaliation claim based on an allegedly unsafe work assignment to proceed. The court also directs the Clerk to strike plaintiff’s improperly filed supplemental complaint.

CASE DETAILS

COURT	United States District Court for the District of Kansas
WRITING FOR THE COURT	Daniel D. Crabtree
JURISDICTION	United States District Court for the District of Kansas
DECIDED	March 31, 2026
DOCKET	25-1022-DDC-GEB
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss plaintiff's Title VII and state-law tort claims. Plaintiff also sought review of magistrate-judge rulings, default judgment, sanctions, discovery, and recusal. The court granted the motion to dismiss in part, denied it in part, struck the unauthorized supplemental complaint, denied default judgment and sanctions, and overruled plaintiff's objections.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true, views them in the light most favorable to the plaintiff, and asks whether the complaint states a facially plausible claim for relief. For review of nondispositive magistrate-judge rulings, the court applies the clearly erroneous or contrary-to-law standard; timely objections to a recommended disposition receive de novo review as to properly objected portions.
PRECEDENTIAL VALUE	unknown

PARTIES

Steven M. Ford v. Sherwin-Williams

TOPICS

motions to dismiss

retaliation

hostile work environment

title vii

civil procedure

PRACTICE AREAS

employment law

civil procedure

civil rights

torts

QUESTIONS PRESENTED

1. Whether the supplemental complaint filed without leave or right was an operative pleading.
2. Whether Ford's Title VII claims were barred in whole or in part by the ninety-day right-to-sue filing period or the requirement to file an EEOC charge within 300 days.
3. Whether the complaint plausibly alleged a Title VII hostile-work-environment claim.
4. Whether the complaint plausibly alleged a Title VII retaliation claim based on the alleged unsafe assignment and other workplace actions.
5. Whether the complaint plausibly alleged Kansas claims for assault, battery, invasion of privacy, intentional infliction of emotional distress, or negligence against Sherwin-Williams.
6. Whether the magistrate judge's rulings were clearly erroneous or contrary to law, whether default judgment or sanctions were warranted, and whether recusal was required.

HOLDINGS

1. A supplemental complaint filed without leave or an applicable right to amend is not operative and may be stricken; the court therefore considered only Ford's original complaint and its attached exhibits.
2. The court declined to dismiss the Title VII claims as untimely because the ninety-day period begins when the claimant receives the EEOC right-to-sue letter, not when the EEOC mails it, and a presumed three-day delivery period made Ford's filing timely.
3. Claims based on acts occurring before December 6, 2023, were dismissed without prejudice because Ford filed his EEOC charge on October 1, 2024, and did not plead facts establishing equitable tolling or another basis for avoiding the 300-day limit.
4. Ford failed to state a plausible Title VII hostile-work-environment claim because the complaint did not allege harassment sufficiently severe or pervasive to alter a term, condition, or privilege of employment; the claim was dismissed without prejudice.
5. Ford plausibly alleged a materially adverse action for Title VII retaliation by alleging that Sherwin-Williams assigned him to a tank-farm roof without a safe means of returning to the ground; the retaliation claim based on that assignment survived the motion to dismiss.
6. Criticism, humiliation, and exclusion from meetings, without more, were insufficiently materially adverse to support a Title VII retaliation claim.

7. Ford failed to state plausible Kansas claims for assault, battery, invasion of privacy, intentional infliction of emotional distress, or negligence against Sherwin-Williams; all state-law tort claims were dismissed without prejudice.
8. Default judgment was unavailable because the defendant actively litigated the case and the clerk had not entered default.
9. The magistrate judge's rulings denying motions as moot or premature and declining recusal were not clearly erroneous or contrary to law, and plaintiff's unclear or untimely objections were overruled or waived.

KEY QUOTATIONS

“To survive a Rule 12(b)(6) 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.’” (II.A)

“Placing someone in danger of physical harm might well dissuade a reasonable worker from filing a charge of discrimination.” (II.B.2.b)

“Plaintiff’s Title VII retaliation claim based on defendant assigning him to an unsafe job survives this Order. But the court dismisses the rest of plaintiff’s claims.” (IV)

FACTUAL BACKGROUND

Sherwin-Williams hired Ford as a maintenance technician in March 2023. Ford alleged that supervisor Cale Ross harassed him, including through inappropriate comments, physical advances, explicit suggestions, and an incident in which Ross threw a tissue box that struck Ford in the face. Ford reported alleged harassment and assault to supervisors and human resources, after which he claimed Sherwin-Williams retaliated by excluding him from a safety meeting, humiliating him, reassigning him to less desirable work, and assigning him to a tank-farm roof without a safe means of returning to the ground. Ford eventually left his job and asserted Title VII discrimination and retaliation claims and state-law claims for assault, battery, invasion of privacy, intentional infliction of emotional distress, and negligence.

PROCEDURAL HISTORY

Ford filed his complaint in February 2025 and later filed a supplemental complaint without leave or right. The court held that the original complaint, together with its attached exhibits, was the operative pleading and ordered the supplemental complaint stricken. After considering Sherwin-Williams's motion to dismiss and plaintiff's motions and objections, the court allowed only a Title VII retaliation theory based on an allegedly unsafe work assignment to proceed and dismissed the remaining claims without prejudice.

DISPOSITION

other

CASES CITED

- Haines v. Kerner, 404 U.S. 519, 520-21 (1972)

- Hall v. Bellmon, 935 F.2d 1106, 1110, 1112 (10th Cir. 1991)
- Kay v. Bemis, 500 F.3d 1214, 1218 (10th Cir. 2007)
- Garrett v. Selby, Connor, Maddux & Janer, 425 F.3d 836, 840 (10th Cir. 2005)
- Purgatory Recreation I, LLC v. United States, 157 F.4th 1173, 1182 (10th Cir. 2025)
- Andrews v. Eaton Metal Prods., LLC, No. 20-cv-00176-PAB-NYW, 2020 WL 5821611, at *1 n.1 (D. Colo. Sept. 8, 2020)
- Herrera v. Maddox Mgmt., LLC, No. 25-cv-00658 KWR/JMR, 2025 WL 3296013, at *8 (D.N.M. Nov. 26, 2025)
- Ross v. Peterson, No. 25-3105-JWL, 2025 WL 1634965, at *1 (D. Kan. June 9, 2025)
- Garcia v. Centurion, No. 24-3008-JWL, 2024 WL 263174, at *6 (D. Kan. Jan. 24, 2024)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555-56, 570 (2007)
- Christy Sports, LLC v. Deer Valley Resort Co., 555 F.3d 1188, 1192 (10th Cir. 2009)
- Panicker v. Compass Grp. U.S.A. Inc., 712 F. App'x 784, 785 (10th Cir. 2017)
- Million v. Frank, 47 F.3d 385, 389 (10th Cir. 1995)
- Montes v. Vail Clinic, 497 F.3d 1160, 1167, 1174 n.19 (10th Cir. 2007)
- Muldrow v. City of St. Louis, 601 U.S. 346 (2024)
- National R.R. Passenger Corp. v. Morgan, 536 U.S. 101, 117 (2002)
- Schell v. Chief Justice & Justices of Okla. Supreme Ct., 11 F.4th 1178, 1191 n.6 (10th Cir. 2021)
- Gee v. Pacheco, 627 F.3d 1178, 1186 (10th Cir. 2010)
- Smith v. Cheyenne Retirement Invs., 904 F.3d 1159, 1166 (10th Cir. 2018)
- Brown v. LaFerry's LP Gas Co., Inc., 708 F. App'x 518, 522-23 (10th Cir. 2017)
- Hall v. U.S. Dep't of Labor, Admin. Rev. Bd., 476 F.3d 847, 851 (10th Cir. 2007)
- Throupe v. Univ. of Denv., 988 F.3d 1243, 1252 (10th Cir. 2021)
- Morris v. City of Colorado Springs, 666 F.3d 654, 665-69 (10th Cir. 2012)
- Chytka v. Wright Tree Serv., Inc., 925 F. Supp. 2d 1147, 1169 (D. Colo. 2013)
- Somoza v. Univ. of Denv., 513 F.3d 1206, 1212 (10th Cir. 2008)
- Argo v. Blue Cross & Blue Shield of Kan., Inc., 452 F.3d 1193, 1202 (10th Cir. 2006)
- Culp v. Remington of Montrose Golf Club, LLC, 133 F.4th 968, 977 (10th Cir. 2025)
- Est. of Graves v. Mapleton Andover LLC, 659 F. Supp. 3d 1208, 1220 (D. Kan. 2023)
- Werner v. Kliewer, 710 P.2d 1250, 1255 (Kan. 1985)
- Lovitt ex rel. Bahr v. Bd. of Cnty. Comm'rs, 221 P.3d 107, 114 (Kan. Ct. App. 2009)
- Adams v. Goodyear Tire & Rubber, No. 96-4228-SAC, 2000 WL 1310521, at *9 (D. Kan. Aug. 25, 2000)
- Nordwald v. Brightlink Commc'ns, LLC, 603 F. Supp. 3d 1030, 1040 (D. Kan. 2022)
- Klaxon Co. v. Stentor Elec. Mfg. Co., 313 U.S. 487, 496 (1941)
- Howard v. Ferrellgas Partners, L.P., 748 F.3d 975, 982 (10th Cir. 2014)
- In re K.M.H., 169 P.3d 1025, 1032 (Kan. 2007)

- Issa v. Comp USA, 354 F.3d 1174, 1177 (10th Cir. 2003)
- C1.G. ex rel. C.G. v. Siegfried, 38 F.4th 1270, 1282 (10th Cir. 2022)
- Brown v. Nationwide Ins. Co., No. 21-4122, 2023 WL 4174064, at *9 (10th Cir. June 26, 2023)
- First Union Mortg. Corp. v. Smith, 229 F.3d 992, 995 (10th Cir. 2000)
- Ocelot Oil Corp. v. Sparrow Indus., 847 F.2d 1458, 1461-62, 1464 (10th Cir. 1988)
- United States v. Gallegos, 314 F.3d 456, 462 n.3 (10th Cir. 2002)
- Sprint Commc'ns Co. L.P. v. Vonage Holdings Corp., 500 F. Supp. 2d 1290, 1346 (D. Kan. 2007)
- Walker v. Bd. of Cnty. Comm'rs, No. 09-1316, 2011 WL 2790203, at *2 (D. Kan. July 14, 2011)
- Adargo v. U.S. Parole Comm'n, 26 F. App'x 795, 797 (10th Cir. 2001)
- Clark v. State Farm Mut. Auto Ins. Co., 590 F.3d 1134, 1140 (10th Cir. 2009)
- United States v. Burlington N. R.R., 200 F.3d 679, 699 (10th Cir. 1999)
- Kruskal v. Martinez, 859 F. App'x 336, 338 (10th Cir. 2021)
- United States v. One Parcel of Real Property, 73 F.3d 1057, 1060 (10th Cir. 1996)
- Pitts v. Matevousian, No. 20-cv-02691-RM-KLM, 2021 WL 22335, at *1 (D. Colo. Jan. 4, 2021)
- Liteky v. United States, 510 U.S. 540, 554-56 (1994)
- United States v. Nickl, 427 F.3d 1286, 1298 (10th Cir. 2005)

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