

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

United African-Asian Abilities Club v. ASP Mohawk, LLC

No. 25-cv-0476-BAS-MSB (S.D. Cal. Apr. 16, 2025) · No. 25-cv-0476-BAS-MSB · Decided April 16, 2025

OPINION

United African-Asian Abilities Club v. ASP Mohawk, LLC

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 UNITED AFRICAN-ASIAN Case No. 25-cv-0476-BAS-MSB

ABILITIES CLUB, JAMES LEE,

12

ORDER DECLINING

Plaintiffs,

13 SUPPLEMENTAL JURISDICTION

v. 14

ASP MOHAWK, LLC; DOES 1

15

THROUGH 10,

16 Defendants. 17

18 The Complaint filed in this action asserts a claim for injunctive relief arising out of 19 an
alleged violation of the federal Fair Housing Act, Americans with Disabilities Act 20 (“ADA”) and a claim for damages pursuant to California’s Unruh Act and other state-law 21 claims. (ECF
No. 1.). On March 3, 2025, the Court ordered Plaintiffs to show cause why 22 the Court should
not decline to exercise supplemental jurisdiction over Plaintiffs’ Unruh 23 Act claim. (OSC, ECF
No. 3.) Plaintiffs responded to the Order to Show Cause two days 24 late and without an
accompanying motion to accept the late-filed response. (Response, ECF
25 No. 4.) Having considered Plaintiffs’ response, the Court finds exercise of supplemental
26 jurisdiction is not warranted under the circumstances. Accordingly, Plaintiffs’ Unruh Act 27
claim is DISMISSED WITHOUT PREJUDICE to filing in state court. 28

1 I. LEGAL STANDARD

2 A district court may exercise supplemental jurisdiction over “all other claims that 3 are so
related to the claims in the action within such original jurisdiction that form part of 4 the same
case or controversy under Article III of the U.S. Constitution.” 28 U.S.C. § 5 1367(a). That a court

may exercise supplemental jurisdiction, however, “does not mean 6 that the jurisdiction must be exercised in all cases.” *City of Chicago v. Int’l Coll. of 7 Surgeons*, 522 U.S. 156, 172 (1997). Supplemental jurisdiction is ultimately “a doctrine of 8 discretion, not of plaintiff’s right.” *United Mine Workers of Am. v. Gibbs*, 383 U.S. 715, 9 726 (1966). “Needless decisions of state law should be avoided both as a matter of comity 10 and to promote justice between the parties.” *Id.* Under the supplemental jurisdiction statute, 11 a district court may decline to exercise supplemental jurisdiction if: 12 (1) the claim raises a novel or complex issue of State law, (2) the claim substantially predominates over the claim or claims over which the district 13 court has original jurisdiction, (3) the district court has dismissed all claims 14 over which it has original jurisdiction, or (4) in exceptional circumstances, there are other compelling reasons for declining jurisdiction. 15 16 *Id.* § 1367(c). 17 Where a district court invokes section 1367(c)(4)’s “exceptional circumstances” 18 provision, it must satisfy a two-part inquiry: (1) the “district court must articulate why the 19 circumstances of the case are exceptional within the meaning of § 1367(c)(4),” *Arroyo v. 20 Rosas*, 19 F.4th 1202, 1210 (9th Cir. 2021) (citation omitted), and (2) “in determining 21 whether there are compelling reasons for declining jurisdiction . . . the court should 22 consider what ‘best serves the principles of economy, convenience, fairness, and comity 23 which underlie the pendent jurisdiction doctrine,’” *id.* (quoting *Int’l Coll. of Surgeons*, 522 24 U.S. at 172–73). To satisfy this “case-specific” inquiry under Section 1367(c)(4), the court 25 “needs to only identify the exceptional circumstances [and compelling reasons] and 26 confirm that they apply to the particular case before it.” *Vo v. Choi*, 49 F.4th 1167, 1173 27 (9th Cir. 2022). 28

1 II. ANALYSIS

2 A. The ADA and the Unruh Act 3 The ADA prohibits discrimination “on the basis of disability in the full and equal 4 enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of 5 any place of public accommodation by any person who owns, leases (or leases to), or 6 operates a place of public accommodation.” 42 U.S.C. § 12182(a). Under the ADA, 7 injunctive relief is the only remedy available to a private litigant. *Id.* § 12188(a). 8 In passing the Unruh Act, however, California “chose a different route” and created 9 “a state law cause of action that relies dispositively on the ADA’s substantive rules but that 10 expands the remedies available in a private action.” *Arroyo*, 19 F.4th at 1211. Under the 11 Unruh Act, all persons in California, “no matter what their . . . disability . . . are entitled to 12 the full and equal accommodations, advantages, facilities, privileges, or services in all 13 business establishments of every kind whatsoever.” Cal. Civ. Code § 51(b). A violation of 14 the ADA constitutes a violation of Section 51 of the Unruh Act. *Id.* § 51(f). Yet, unlike the 15 ADA, the Unruh Act not only provides for injunctive relief, but also allows for recovery 16 of monetary damages for every offense “up to a maximum of three times the amount of 17 actual damage but in no case less than four thousand dollars (\$4,000).” *Id.* § 52(a).

18 In 2012 and 2015, California changed the procedural requirements for filing

19 construction-related accessibility claims under the Unruh Act to address the issue of some 20 attorneys “abusing the Unruh Act by demanding ‘quick money settlement[s]’ from 21 California business owners ‘without seeking and obtaining actual repair or correction of 22 the alleged violations on the site.’” Arroyo, 19 F.4th at 1206 (citing Act of Sept. 19, 2012, 23 ch. 383, § 24, 2012 Cal. Stat. 3843, 3871). These changes included regulating the language 24 permissible in demand letters for construction-related accessibility claims, Cal. Civ. Code 25 § 55.31, and mandating that a notice for such claims be served along with the summons 26 and complaint, id. § 55.54. Critically, California provided additional procedural safeguards 27 where claims were brought by litigants deemed to be “high-frequency litigants” of 28 construction-related accessibility claims. See Cal. Civ. Proc. Code § 425.55. The 1 legislature included these safeguards “so as to ensure that the claims are warranted.” Id. 2 § 425.55(b). Under the changes, high-frequency litigants are required to pay an additional 3 \$1,000 filing fee “if the complaint alleges a construction-related accessibility claim.” Cal. 4 Gov’t. Code § 70616.5. 5 In this Court’s Order to Show Cause, the Court ordered Plaintiffs to identify whether 6 California state courts would consider them to be “high-frequency litigant[s]” under the 7 California legislature’s procedural safeguards. (ECF No. 3.) Plaintiffs fail to identify 8 whether they would be considered as such, and therefore the Court assumes they would.¹ 9 B. Supplemental Jurisdiction 10 The Court is similarly unpersuaded by the lack of any argument by Plaintiffs that the 11 Gibbs factors favor the Court retaining jurisdiction over Plaintiffs’ Unruh Act claim. This 12 case presents “exceptional circumstances” and “there are compelling reasons,” primarily 13 based on comity and fairness, for declining jurisdiction over Plaintiffs’ Unruh Act claim, 14 which outweigh the other factors. 28 U.S.C. § 1367(c)(4). The Court reaches this 15 conclusion after conducting the “two-part inquiry” laid out in Arroyo. 19 F.4th at 1210. 16 1. Exceptional Circumstances 17 First, the Court considers whether exceptional circumstances exist in this case. 18 “Exceptional circumstances” under Section 1367(c)(4) include “at the very least . . . highly 19 unusual situations that threaten to have a substantial adverse impact on the core Gibbs 20 values of ‘economy, convenience, fairness, and comity.’” Arroyo, 19 F.4th at 1211 21 (quoting Int’l Coll. of Surgeons, 522 U.S. at 172–73). 22 The Ninth Circuit agreed with the district court’s finding in Arroyo that the 23 circumstances were exceptional where “the distinctive configuration of California-law 24 25 1 Plaintiffs instead make the following ambiguous statement: “Plaintiffs assert they could 26 potentially substantiate the non-applicability of CA CCP §425.55(b)(1)–(2) to the Unruh Act claim in the present Fair Housing Act action context. However, Plaintiffs are willing to currently waive those 27 arguments for the court to retain supplemental jurisdiction over their Unruh Act claim.” (ECF No. 4 at 3.) Stating that they could present an argument for why they may not be deemed “high-frequency litigants” 28 1 rules . . . would be rendered ineffectual if the district court were to exercise supplemental 2 jurisdiction.” Arroyo, 19 F.4th at 1211. Here, as in Arroyo, those same California rules are 3 rendered ineffectual where plaintiffs such as those here are permitted to raise these claims 4 in federal court and thus skirt California’s

rules. Indeed, it appears that both the United 5 African-Asian Abilities Club has taken full advantage of this workaround. Since 2015, for 6 example, the United African-Asian Abilities Club and James Lee have filed over 150 cases 7 in this district alone, filing roughly 75 of them within the last year.² Meanwhile, James Lee 8 has filed 144 cases in this district since February 8, 2023.³ Therefore, the exceptional 9 circumstances here are the same as they were in Arroyo—high-frequency litigants like the 10 United African-Asian Abilities Club and James Lee are still avoiding California’s 11 requirements by bringing their construction-related accessibility claims into federal court. 12 By doing so, they have “thwarted the California Legislature’s goal of providing damages 13 relief for ADA violations while limiting the financial burdens that California’s businesses 14 may face from damages actions.” *Frazier v. Ramirez*, No. 2:24-cv-06294-MRA-MAA, 15 2024 WL 4406814, at *4 (C.D. Cal. Aug. 27, 2024). 16 Therefore, this Court “cannot stray from Arroyo’s conclusion that the first prong of 17 the § 1367(c)(4) inquiry is met.” *Vo*, 49 F.4th at 1171. Accordingly, this Court finds that 18 exceptional circumstances justify the Court’s discretion to decline to exercise supplemental 19 jurisdiction over Plaintiffs’ Unruh Act claim in this action under 28 U.S.C. § 1367(c)(4). 20 2. Compelling Reasons 21 The Court next considers the second prong of the Section 1367(c)(4) inquiry, 22 whether there are “compelling reasons for declining jurisdiction” in this case 23 “consider[ing] what best serves the principles of economy, convenience, fairness, and 24 25 26 2 This number is derived from a search of PACER conducted on April 16, 2025, for the United African-Asian Abilities Club as a plaintiff, which produced a list of 158 cases filed in this district since 27 January 19, 2015.

3 This number is derived from a search of PACER conducted on April 16, 2025, for James Lee as 28 1 comity which underlie the pendent jurisdiction doctrine articulated in *Gibbs*.” *Arroyo*, 19 2 F.4th at 1210 (citation omitted). 3 Here, fairness and comity overwhelmingly weigh in favor of declining supplemental 4 jurisdiction over Plaintiffs’ Unruh Act claim. In *Vo*, the Ninth Circuit affirmed a district 5 court opinion on similar facts, holding that: 6 it would not be “fair” to the defendants if plaintiffs could bypass the “limitations California state law has imposed” on Unruh Act claims by simply 7 bringing them in federal court. Moreover, the [district] court noted that 8 allowing federal courts to be an “escape hatch” for plaintiffs seeking to avoid the heightened requirements would be an “affront to the comity between 9 federal and state courts.” 10 11 *Vo*, 49 F.4th at 1168–69 (favorably citing the lower court’s decision declining to exercise 12 supplemental jurisdiction). In short, the Ninth Circuit has already held that in 13 circumstances such as these the values of fairness and comity weigh heavily in favor of 14 declining supplemental jurisdiction. Plaintiffs’ response to this Court’s Order to Show 15 Cause wholly fails to distinguish the circumstances of this case from those of *Vo*. (See 16 generally ECF No. 4.) 17 As in *Vo*, this Court has the opportunity to decline supplemental jurisdiction over 18 the Unruh Act claim “well before [] rul[ing] on the merits of the ADA claim,” and therefore 19 the values of economy and convenience also weigh in favor of declining jurisdiction. *Vo*, 20 49 F.4th at 1172.

In *Vo*, the Ninth Circuit clarified that “[t]he fatal flaw we identified in the 21 Arroyo district court’s order was that it waited until a ‘very late stage’ of the litigation to 22 decline supplemental jurisdiction.” *Id.* at 1171–72. In Arroyo, even though “many of the 23 Gibbs values could have been furthered by refusing supplemental jurisdiction over the 24 Unruh Act claim in that case, . . . doing so at that late point in the litigation would not 25 actually effectuate any of those values” because it would “merely create duplicative work 26 for the state court.” *Id.* at 1172 (citation omitted). In Arroyo, the district court declined to 27 exercise supplemental jurisdiction over the state-law claim after the case went through 28 summary judgment. Here, as in *Vo*, those concerns are not present because this case is still 1 its very early stages—the defendant has yet to appear, and therefore declining 2 ||supplemental jurisdiction now “completely sidesteps the core concern articulated in 3 || Arroyo.” *Id.* 4 Accordingly, at this early stage of litigation, the Gibbs values are best served by 5 declining supplemental jurisdiction over Plaintiffs’ Unruh Act claim. Both exceptional 6 ||circumstances and compelling reasons exist for the Court to exercise its discretion to 7 decline supplemental jurisdiction over Plaintiffs’ Unruh Act claim.

8 IT. CONCLUSION

9 For the foregoing reasons, the Court declines to exercise supplemental jurisdiction 10 ||over Plaintiffs’ Unruh Act claim. The claim is hereby DISMISSED WITHOUT 11 || PREJUDICE for Plaintiff to assert it in state court. The Court retains jurisdiction over 12 || Plaintiffs’ remaining claims. 13 IT IS SO ORDERED. 14 15 || DATED: April 16, 2025 (atta Bahar 16 Hon. Cynthia Bashant, Chief Judge 7 United States District Court 18 19 20 21 22 23 24 25 26 27 28 _7_