

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Kevin D. Turnage v. Robert F. Kennedy, Jr., et al.

Turnage · No. CV-25-03367-PHX-SMB · Decided April 2, 2026

SUMMARY

The United States District Court for the District of Arizona addressed multiple motions filed by pro se plaintiff Kevin D. Turnage, including motions to amend, compel agency action, obtain early third-party discovery, seek a protective order, and stay an administrative inquiry. The court granted leave to file a Fourth Amended Complaint and denied the remaining motions, several as moot. The court also cautioned plaintiff about duplicative motions and false or fabricated citations and warned that further abuses could warrant sanctions.

CASE DETAILS

COURT	United States District Court for the District of Arizona
JURISDICTION	United States District Court for the District of Arizona
DECIDED	April 2, 2026
DOCKET	CV-25-03367-PHX-SMB
DISPOSITION	other
PROCEDURAL POSTURE	The district court ruled on multiple motions filed by Plaintiff in an employment-related action, granting leave to file a fourth amended complaint and denying or dismissing as moot the remaining motions.
STANDARD OF REVIEW	Leave to amend is governed by Federal Rule of Civil Procedure 15(a), under which leave is generally freely given, with prejudice to the opposing party receiving the greatest weight. Early discovery before the Rule 26(f) conference requires good cause. Preliminary injunctive relief requires likelihood of success on the merits, likely irreparable harm, a favorable balance of equities, and consistency with the public interest; irreparable harm must be shown by evidence and cannot be speculative.
PRECEDENTIAL VALUE	Unknown
PARTIES	Kevin D. Turnage v. Robert F. Kennedy, Jr., et al.

TOPICS

- motion to amend
- discovery dispute
- injunctions
- administrative procedure act
- civil procedure

PRACTICE AREAS

civil procedure

administrative law

federal employment law

employment law

remedies

QUESTIONS PRESENTED

1. Whether Plaintiff should be granted leave to file a fourth amended complaint.
2. Whether the court should compel the agency to issue a final decision on Plaintiff's pending EEO complaint.
3. Whether Plaintiff established good cause for early discovery from Google before the Rule 26(f) conference.
4. Whether Plaintiff was entitled to a protective order or preliminary injunctive relief compelling a meet-and-confer process and enjoining adverse personnel actions.
5. Whether Plaintiff was entitled to stay an administrative inquiry based on alleged irreparable harm.

HOLDINGS

1. Leave to file the fourth amended complaint was granted because the litigation was at an early stage and Defendants would not suffer material prejudice.
2. The court denied relief compelling the agency to issue a final EEO decision because Plaintiff had already filed a civil action after the applicable 180-day period and appeared to seek litigation of the same claims in both proceedings.
3. Plaintiff was not permitted to serve a third-party subpoena on Google before the Rule 26(f) conference because he failed to establish good cause.
4. Plaintiff was not entitled to a protective order compelling a meet and confer or enjoining adverse personnel actions because the requested relief was not discovery-related and Plaintiff did not address the elements of preliminary injunctive relief.
5. Plaintiff was not entitled to a stay of the administrative inquiry because he failed to provide evidence of likely irreparable harm.

KEY QUOTATIONS

“it is the consideration of prejudice to the opposing party that carries the greatest weight.” (at 1)

“A plaintiff seeking a preliminary injunction must establish: (1) a likelihood of success on the merits, (2) that the plaintiff will likely suffer irreparable harm in the absence of preliminary relief, (3) that the balance of equities tip in its favor, and (4) that the public interest favors an injunction.” (at 4)

“Speculative injury is not irreparable injury sufficient for a preliminary injunction.” (at 5)

FACTUAL BACKGROUND

Plaintiff filed an EEO complaint with the Department of Health and Human Services on March 7, 2024, and alleged that the agency delayed action and later initiated an administrative inquiry against him. He sought discovery from Google concerning a disabled account allegedly containing emails, documents, and access logs

relevant to the action. He also sought to prevent adverse personnel actions and to stay the agency inquiry, but the court found his asserted harms and the relevance of the requested Google data insufficiently supported.

PROCEDURAL HISTORY

Plaintiff filed an action concerning an Equal Employment Opportunity complaint and related federal employment matters. Before the court were multiple motions to amend, compel agency action, obtain early third-party discovery, obtain protective or injunctive relief, stay an administrative inquiry, and address responsive pleadings. The court granted the fourth motion to amend, dismissed several prior motions as moot, and denied the remaining motions.

DISPOSITION

other

CASES CITED

- Eminence Cap., LLC v. Aspeon, Inc., 316 F.3d 1048, 1051-52 (9th Cir. 2003)
- Gao v. United States, 2019 WL 11199934 (D. Ariz. Oct. 23, 2019)
- Miller v. United States, 2009 WL 1532834 (D. Ariz. Apr. 30, 2009)
- Stafford v. Taffet, No. 1:24-CV-01612-AA, 2026 WL 799409, at *2 (D. Or. Mar. 23, 2026)
- Mohindra v. Boghara, No. CV-25-02050-PHX-SHD, 2025 WL 1900738, at *1 (D. Ariz. July 8, 2025)
- Mobile v. Globalgurutech LLC, No. CV-22-01950-PHX-SMB, 2023 WL 3884994, at *1 (D. Ariz. June 8, 2023)
- Wells Fargo & Co. v. ABD Ins. & Fin. Servs., Inc., 758 F.3d 1069, 1071 (9th Cir. 2014)
- Lopez v. Brewer, 680 F.3d 1068, 1072 (9th Cir. 2012)
- Mazurek v. Armstrong, 520 U.S. 968, 972 (1997)
- Fujikura Composite Am., Inc. v. Dee, No. 24-CV-782 JLS (MSB), 2024 WL 3261214, at *5 (S.D. Cal. June 28, 2024)
- Bossardet v. Centurion Healthcare, No. CV 21-00179-TUC-RM, 2022 WL 22887106, at *5 (D. Ariz. June 17, 2022)
- Yomi v. United States Dept. of Health & Human Services, 970 8754 (D. Kan. 2022)
- Boyd v. Int'l Union of Operating Eng'rs Loc. 701, No. 2:25-CV-01225-LK, 2025 WL 2987703, at *4 (W.D. Wash. Oct. 22, 2025)
- Scott v. Cunningham, 516 F. App'x 672, 673 (9th Cir. 2013)
- Stafford v. Taffet, 2026 WL 799409, at *2

OPINION

Turnage
PER CURIAM.
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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8 9 Kevin D Turnage, No. CV-25-03367-PHX-SMB 10 Plaintiff, ORDER 11 v. 12 Robert F
Kennedy, Jr., et al., 13 Defendants. 14 15 The Court now addresses the following motions filed by
Plaintiff Kevin D. Turnage: 16 Fourth Motion to Amend (Doc. 60); Motion to Stay Administrative
Inquiry (Doc. 13); 17 Plaintiff's First Motion to Amend (Doc. 36); Motion for a Protective Order
and to Compel 18 Meet and Confer (Doc. 44); Second Motion to Amend (Doc. 50); Plaintiff's
Motion for 19 Leave to Serve Third-Party Subpoena (Doc. 51); Third Motion to Amend (Doc. 55);
20 Motion to Compel Final Agency Decision (Doc. 57); Motion to Compel Filing of 21
Responsive Pleading (Doc. 58); Motion to Deem Unopposed and Grant Motion to Compel 22
Final Agency Decision (Doc. 59); and Motion to Submit Pending Motions for Decision 23 (Doc.
64). The Court grants Plaintiff's Fourth Motion to Amend. The Court denies the 24 remaining
Motions.

25 I. MOTION TO AMEND

26 The Court begins with Plaintiff's Fourth Motion to Amend. Absent circumstances 27
inapplicable here, a party "may only amend further after obtaining leave of the court, or by 28
consent of the adverse party." *Eminence Cap., LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051 1 (9th
Cir. 2003) (citing Fed. R. Civ. P. 15(a)). Generally, Federal Rule of Civil Procedure 2 ("Rule")
15(a) advises courts that "leave shall be freely given when justice so requires" 3 and that "[t]his
policy is to be applied with extreme liberality." *Id.* (citation modified). 4 Several considerations
guide whether to grant leave to amend but "[n]ot all of the factors 5 merit equal weight." *Id.* at
1052. "[I]t is the consideration of prejudice to the opposing 6 party that carries the greatest
weight." *Id.* Given the early stages of this litigation, 7 Defendants would not be materially
prejudiced. Thus, the Court grants Plaintiff's Motion 8 to Amend. 9 Accordingly, the Court
dismisses as moot Plaintiff's previous three pending 10 Motions to Amend (Docs. 36, 50, 55). The
Court also dismisses as moot Plaintiff's Motion 11 to Compel Filing of Responsive Pleading (Doc.
58). Plaintiff filed this Motion before his 12 current Motion to Amend.

13 II. MOTION TO COMPEL FINAL AGENCY DECISION

14 The Court now considers Plaintiff's Motion to Compel Final Agency Decision. 15 Plaintiff asks
the Court to compel the U.S. Department of Health and Human Services (the 16 "Agency") to
issue a Final Agency Decision on his pending Equal Employment 17 Opportunity ("EEO")
complaint. (Doc. 57 at 1). Plaintiff filed an EEO complaint with the 18 agency on March 7, 2024.
(*Id.* at 2.) Over 700 days later, on February 10, 2026, the 19 Agency notified Plaintiff that it
received his complaint. (*Id.*) Plaintiff contends that this 20 delay is "triple the statutory limit and
constitutes unreasonable delay as a matter of law" 21 and allows this Court to "compel agency
action" as it has been "unlawfully withheld or 22 unreasonably delayed." (*Id.* at 3.) 23 To start,
Plaintiff contends that the Agency "shall conduct an investigation and issue 24 a final decision on
each formal complaint within 180 days of the filing of the complaint." 25 (*Id.*) Plaintiff purports to

quote 29 C.F.R. § 1614.110(b) but that language does not appear 26 in that regulation. (Doc. 57 at 3.) Perhaps Plaintiff intended to quote 29 C.F.R. 27 § 1614.106(e)(2) which provides that “[t]he agency is required to conduct an impartial and 28 appropriate investigation of the complaint within 180 days of the filing of the complaint.” 1 If the agency fails to do so, the claimant may file a civil suit “after one hundred and eighty 2 days from the filing of the initial charge with the . . . agency.” 42 U.S.C. § 2000e-16(c). 3 Given that Plaintiff has done so, the Court will not grant Plaintiff’s requested relief. 4 Plaintiff seemingly seeks to litigate the same issues present in his EEO complaint. Thus, 5 even assuming the Court could compel the Agency to rule on the EEO complaint, it would 6 be inappropriate to do so given that this action seemingly involves the same claims. The 7 Court will thus deny as moot Plaintiff’s Motion to Deem Unopposed and Grant Motion to 8 Compel Final Agency Decision (Doc. 59). 9 The Court also notes that aside from Plaintiff misquoting § 1614.110(b), Plaintiff 10 cited “Gao v. United States, 2019 WL 11199934 (D. Ariz. Oct. 23, 2019)” and “Miller v. 11 United States, 2009 WL 1532834 (D. Ariz. Apr. 30, 2009)” for the proposition that “courts 12 in this district have previously ordered agencies to issue decisions and have imposed 13 sanctions for unjustified delays.” (Doc. 57 at 3.) The Court was unable to locate either 14 case. The Court notifies Plaintiff that “[t]he presentation of false citations, including AI 15 ‘hallucinations,’ has been found to be sanctionable conduct for attorneys and pro se 16 parties.” *Stafford v. Taffet*, No. 1:24-CV-01612-AA, 2026 WL 799409, at *2 (D. Or. Mar. 17 23, 2026).

18 III. MOTION FOR LEAVE TO SERVE THIRD-PARTY SUBPOENA

19 The Court now considers Plaintiff’s Motion for Leave to Serve Third-Party 20 Subpoena. Plaintiff desires to subpoena Google, LLC “to preserve and recover Plaintiff’s 21 own electronically stored information (“ESI”) contained in a Google account that was 22 unlawfully accessed and subsequently disabled.” (Doc. 51 at 1–2.) Plaintiff avers that his 23 Google account “contains critical evidence relevant to this action, including emails, 24 documents stored in Google Drive, and access logs that may identify the perpetrators of 25 the unauthorized access.” (Id. at 2.) Plaintiff does not expound on what particular evidence 26 he seeks or its relevance to this action. 27 Absent a court order, litigants “may not seek discovery from any source before the 28 parties have conferred.” Fed. R. Civ. P. 26(d)(1). “Courts may order discovery prior to 1 the Rule 26(f) conference where good cause is shown for the early discovery.” *Mohindra 2 v. Boghara*, No. CV-25-02050-PHX-SHD, 2025 WL 1900738, at *1 (D. Ariz. July 8, 2025) 3 (citation modified). “Good cause may be found where the need for expedited discovery, 4 in consideration of the administration of justice, outweighs the prejudice to the responding 5 party.” *Mobile v. Globalgurutech LLC*, No. CV-22-01950-PHX-SMB, 2023 WL 3884994, 6 at *1 (D. Ariz. June 8, 2023) (citation modified). 7 Here, Plaintiff fails to provide enough information for this Court to determine 8 whether there is good cause to permit early discovery. To start, Plaintiff claims early 9 discovery is needed based on a his “fear[] that Google’s automated systems may 10 permanently purge the disabled account and its contents if a formal legal demand is not 11

processed immediately.” (Doc. 51 at 3.) Plaintiff has not substantiated this fear beyond 12 proffering his own belief that “[d]igital service providers like Google operate with 13 automated retention policies.” (Id. at 3.) Neither does Plaintiff describe what types of 14 evidence he hopes to obtain beyond access to a disabled account. More importantly, 15 Plaintiff fails to offer any explanation as to how the sought data is relevant to the present 16 lawsuit.¹ 17 Accordingly, the Court denies Plaintiff’s Motion for Leave to Serve Third-Party 18 Subpoena.

19 IV. MOTION FOR A PROTECTIVE ORDER AND TO COMPEL MEET AND 20 CONFER

21 The Court now considers Plaintiff’s Motion for a Protective Order and to Compel 22 Meet and Confer. Plaintiff seeks the following: [A]n order (1) compelling the parties to confer in good faith within ten 23

(10) business days to discuss any amendment to the complaint and to set a

24 schedule for filing responsive pleadings, and (2) entering a protective order enjoining the United States Government from taking any further adverse 25 26 27 1 Plaintiff claims that “[o]n January 9, 2026, Google’s Legal Support team responded to Plaintiff’s request for voluntary preservation.” (Doc. 51 at 2.) Plaintiff provides that “[a] 28 true and correct copy of this email is attached hereto as Exhibit 2.” (Id. at 3.) This exhibit is not attached to the Motion. 1 personnel actions against Plaintiff. 2 (Doc. 44 at 1.) Beyond these requests, Plaintiff’s Motion is borderline incomprehensible. 3 The Court denies Plaintiff’s first request. This case will proceed according to the 4 Federal Rules of Civil Procedure and this Court’s mandates. As to Plaintiff’s second 5 request, it appears that Plaintiff mistakes a protective order with preliminary injunctive 6 relief. Protective orders relate to discovery, see Fed. R. Civ. P. 26(c), which are not 7 implicated by Plaintiff’s Motion. Instead, Plaintiff asks this Court to “enter a protective 8 order enjoining the United States Government, its officers, agents, and employees from 9 taking any further adverse personnel actions, from restricting Plaintiff’s access to IHS 10 facilities, and from retaliating against Plaintiff for his protected disclosures.” (Doc. 44 11 at 6.) Plaintiff relies on “Yomi v. United States Dept. of Health & Human Services, 12 970 8754 (D. Kan. 2022).” (Doc. 44 at 4–5.) Again, the Court is unable to locate this case. 13 Plaintiff’s emerging pattern of relying on fictitious cases aside, the standard for preliminary 14 injunctive relief is relatively onerous. See, e.g., Wells Fargo & Co. v. ABD Ins. & Fin. 15 Servs., Inc., 758 F.3d 1069, 1071 (9th Cir. 2014) (“A plaintiff seeking a preliminary 16 injunction must establish: (1) a likelihood of success on the merits, (2) that the plaintiff 17 will likely suffer irreparable harm in the absence of preliminary relief, (3) that the balance 18 of equities tip in its favor, and (4) that the public interest favors an injunction.”). Plaintiff 19 does not address any of these elements. 20 Accordingly, the Court denies Plaintiff’s Motion to for a Protective Order and to 21 Compel Meet and Confer.

22 V. MOTION TO STAY ADMINISTRATIVE INQUIRY

23 The Court now considers Plaintiff’s Motion to Stay Administrative Inquiry. 24 Plaintiff requests that this Court “stay a new, ongoing administrative inquiry initiated 25 against him by the

Defendant, the Secretary of the Department of Health and Human Services.” (Doc. 13 at 1.) According to Plaintiff, after he “engaged in extensive and legally protected whistleblower activity . . . the Agency initiated a new administrative inquiry against Plaintiff . . . under the pretext of investigating [him] for creating a ‘hostile work environment.’” (Id. at 1–2.) This Motion is evaluated under the aforementioned preliminary injunction standard. The Court notes that “a preliminary injunction is an extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion.” *Lopez v. Brewer*, 680 F.3d 1068, 1072 (9th Cir. 2012) (citation modified) (quoting *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997)). The Court denies Plaintiff’s Motion because he fails to plausibly establish that he will suffer irreparable harm in the absence of the Court staying the administrative inquiry. Plaintiff attempts to persuade this Court otherwise with two arguments. First, Plaintiff argues that the administrative inquiry subjects him “to immense stress and anxiety and creates a chilling effect on his ability to freely and fully participate in this litigation without fear of further punishment.” (Id. at 3.) Second, Plaintiff argues that “[t]he very pendency of the inquiry is a continuing harm, as it allows the Agency to wield its institutional power to intimidate a litigant who has dared to challenge its unlawful conduct.” (Id.) The Court questions the veracity of any alleged chilling effect given the litany of motions Plaintiff has filed. Nonetheless, “[i]rreparable harm exists only where there is a threatened imminent loss that will be very difficult to quantify at trial.” *Fujikura Composite Am., Inc. v. Dee*, No. 24-CV-782 JLS (MSB), 2024 WL 3261214, at *5 (S.D. 19 Cal. June 28, 2024). “A plaintiff may not rely on mere allegation but must instead submit evidence showing likely irreparable harm.” Id. (citation modified). “Speculative injury is not irreparable injury sufficient for a preliminary injunction.” *Bossardet v. Centurion Healthcare*, No. CV 21-00179-TUC-RM, 2022 WL 22887106, at *5 (D. Ariz. June 17, 23 2022). Here, Plaintiff does not present any evidence demonstrating that he will likely suffer a concrete harm, aside from his mere assertion that the inquiry will result in irreparable harm. But the harms Plaintiff identifies are speculative and are not necessarily the result of an administrative inquiry. Accordingly, the Court denies Plaintiff’s Motion to Stay Administrative Inquiry.

VI LITIGATION CONDUCT

The Court concludes with a word of caution. First, the Court reminds Plaintiff that even as a pro se litigant, he is “subject to the same procedural requirements as other litigants” which “entails strict compliance with applicable law, including but not limited to the Federal Rules of Civil Procedure and Local Civil Rules.” *Boyd v. Int’l Union of Operating Eng’rs Loc. 701*, No. 2:25-CV-01225-LK, 2025 WL 2987703, at *4 (W.D. Wash. Oct. 22, 2025). Second, courts have dismissed cases based on litigants filing “frivolous and duplicative motions [which] needlessly disrupted the litigation and burdened the court and opposing counsel.” See, e.g., *Scott v. Cunningham*, 516 F. App’x 672, 673 (9th Cir. 2013). Third, the Court will not tolerate any further “presentation of false citations, including AI ‘hallucinations.’” See *Stafford*, 2026 WL 799409, at

*2. The Court notes that Plaintiff cited more hallucinated cases than highlighted herein. Any 13 || further abuses of AI may warrant sanctions.

14] VU. CONCLUSIONS

15 Accordingly, 16 IT IS HEREBY ORDERED granting Plaintiff's Motion for Leave to File
Fourth 17 || Amended Complaint (Doc. 60). 18 IT IS FURTHER ORDERED denying the
following motions: Plaintiffs Motion to Stay Administrative Inquiry (Doc. 13); Plaintiffs First
Motion to Amend (Doc. 36); || Plaintiffs Motion to for a Protective Order and to Compel Meet and
Confer (Doc. 44); Plaintiffs Second Motion to Amend (Doc. 50); Plaintiff's Motion for Leave to
Serve || Third-Party Subpoena (Doc. 51); Plaintiff's Third Motion to Amend (Doc. 55);
□□□□□□□□□□ 23 || Motion to Compel Final Agency Decision (Doc. 57); Plaintiff's Motion to
Compel Filing 24|| of Responsive Pleading (Doc. 58); Plaintiff's Motion to Deem Unopposed and
Grant 25 || Motion to Compel Final Agency Decision (Doc. 59); and Plaintiff's Motion to Submit
26 || Pending Motions for Decision (Doc. 64). 27 Dated this 2nd day of April, 2026. —_—_> x oS
United States District Judge _7-