

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Michael Harris v. David Song et al.

Harris v. Song · No. 2:25-cv-05301-SVW-BFM · Decided June 16, 2025

SUMMARY

The United States District Court for the Central District of California orders the parties to submit a joint status report addressing alleged ADA barriers, remedial measures, and potential summary judgment motions. The Court also orders the plaintiff to show cause why it should exercise supplemental jurisdiction over the Unruh Act and other state-law claims, and requires declarations concerning high-frequency-litigant status and identification of statutory damages sought.

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 for the Central District of California
DECIDED	June 16, 2025
DOCKET	2:25-cv-05301-SVW-BFM
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 ADA action involving alleged access barriers and supplemental state-law claims.
STANDARD OF REVIEW	The court referenced the discretionary standard governing supplemental jurisdiction under 28 U.S.C. § 1367(c), including consideration of judicial economy, convenience, fairness, and comity.
PRECEDENTIAL VALUE	Unknown; interlocutory district-court order

TOPICS

- ada / disability
- subject matter jurisdiction
- civil procedure
- damages
- attorney fees

PRACTICE AREAS

- Americans with Disabilities Act
- federal civil procedure
- supplemental jurisdiction
- attorney's fees

QUESTIONS PRESENTED

1. What information must the parties provide concerning investigation or remediation of the alleged ADA barriers and their anticipated summary-judgment motions?
2. Whether the plaintiff should show cause why the court should exercise supplemental jurisdiction over the Unruh Act and other state-law claims.
3. Whether voluntary remediation could moot the ADA claim and affect dismissal of supplemental claims and recovery of attorney's fees.

HOLDINGS

1. The parties were ordered to file a joint status report at least seven days before the initial status conference, with defendant describing measures taken to investigate or remedy the alleged barriers, plaintiff stating its position regarding any remedial measures, and both parties addressing whether and when they intend to move for summary judgment.
2. The plaintiff was ordered 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, and to identify the amount of statutory damages sought and provide declarations addressing whether plaintiff and counsel qualify as high-frequency litigants.

KEY QUOTATIONS

“a federal court should consider and weigh in each case, and at every stage of the litigation, the values of judicial economy, convenience, fairness, and comity.” (522 U.S. at 173)

FACTUAL BACKGROUND

The plaintiff asserted claims under the Americans with Disabilities Act based on alleged access barriers and apparently also asserted claims under California's Unruh Act and other state law. The court anticipated that defendant might have investigated or remedied the alleged barriers and noted that voluntary removal of barriers may moot an ADA claim if recurrence cannot reasonably be expected. The opinion does not describe the specific barriers or the parties' underlying factual evidence.

PROCEDURAL HISTORY

The action was pending before the Central District of California. Before the initial status conference, the court directed the parties to report on any remedial measures addressing the alleged ADA barriers, their positions regarding those measures, and whether they intended to seek 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 and warned that inadequate or untimely responses could result in dismissal without prejudice or declining supplemental jurisdiction.

DISPOSITION

other

CASES CITED

- Oliver v. Ralphs Grocery Co., 654 F.3d 903, 905 (9th Cir. 2011)
- Am. 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 Sch., 931 F.3d 1, 11 (1st Cir. 2019)
- Brooke v. A-Ventures, LLC, 2017 WL 5624941, at *5 (D. Ariz. Nov. 22, 2017)
- Buckhannon Bd. & Care Home, Inc. v. W. Va. Dep't of Health & Hum. Res., 532 U.S. 598, 605 (2001)
- Molski v. Foster Freeze Paso Robles, 267 F. App'x 631, 632 (9th Cir. 2008)
- City of Chicago v. Int'l Coll. of Surgeons, 522 U.S. 156, 173 (1997)
- Carnegie-Mellon Univ. v. Cohill, 484 U.S. 343, 350 (1988)

OPINION

Michael Harris v. David Song

PER CURIAM.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 2:25-cv-05301-SVW-BFM Date June 16, 2025 Title Michael Harris v. David Song 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 mootting 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 Am. 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 II 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 *Molski v. Foster Freeze Paso Robles*, 267 Fed.Appx. 631, 632 (9th Cir. 2008) (citing *Buckhannon*, 532 Initials of Preparer

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 2:25-cv-05301-SVW-BFM Date June 16, 2025 Title Michael Harris v. David Song et al U.S. 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, fairness, 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 § 1367(c). IT IS SO ORDERED. Initials of Preparer