

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

**Arizona Integrated Telepsychiatry and Telemedicine Services LLC,
et al. v. Arizona Health Care Cost Containment System, et al.**

Arizona Integrated Telepsychiatry · No. CV-25-01525-PHX-JJT · Decided March 2, 2026

SUMMARY

The United States District Court for the District of Arizona ruled on AHCCCS’s motion to dismiss claims arising from the alleged withholding of telemedicine payments and retaliation for reporting suspected fraud. The court dismissed the False Claims Act qui tam claim because AHCCCS is not a “person” under the Act, granted leave to amend the FCA retaliation claim, and dismissed the separately pleaded injunctive-relief claim with prejudice. The court declined to dismiss the § 1983 due-process claims for failure to exhaust administrative remedies and denied Plaintiffs’ request to amend potential Monell allegations.

OPINION

Arizona Integrated Telepsychiatry and Telemedicine Services LLC, et al. v. Arizona Health Care Cost Containment System, et al.

PER CURIAM.

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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

8 9 Arizona Integrated Telepsychiatry and No. CV-25-01525-PHX-JJT Telemedicine Services
LLC, et al.,

10 ORDER

Plaintiffs, 11 v. 12 Arizona Health Care Cost Containment 13 System, et al., 14 Defendants. 15 16
At issue is Defendant Arizona Health Care Cost Containment System’s 17 (“AHCCCS”) Motion
to Dismiss (Doc. 8, MTD), to which Plaintiffs Arizona Integrated 18 Telepsychiatry and
Telemedicine Services, LLC (“AZITTS”) and John Kamau filed a 19 Response (Doc. 16, Resp.)
and AHCCCS filed a Reply (Doc. 20, Reply). For the reasons 20 set forth below, the Court grants
in part and denies in part AHCCCS’s Motion.

21 I. BACKGROUND1

22 Plaintiffs provide psychiatric telemedicine services in Mesa, Arizona. (Compl. ¶ 1.) 23 In or
around 2018, Mr. Kamau noticed medical billing irregularities by a healthcare 24 investment
group that leased office space in the same building as Plaintiffs. (Id. ¶¶ 8–10.) 25 Suspicious that
the investment group was committing billing fraud, Mr. Kamau reported 26 the irregularities to
the FBI and AHCCCS. (Id. ¶ 9.) 27 1 The following facts are uncontested or—to the extent they

are contested—are drawn from 28 Plaintiffs’ Complaint (Doc. 1, Compl.) and are taken as true and construed in the light most favorable to Plaintiffs. *Cousins v. Lockyer*, 568 F.3d 1063, 1067 (9th Cir. 2009). 1 In May 2020, Mr. Kamau attended a meeting at AHCCCS headquarters where he 2 was detained and questioned by agents. (Id. ¶ 12.) A few months later, agents raided 3 Plaintiffs’ facility and seized computers and papers. (Id.) Plaintiffs were ultimately cleared 4 from any suspected involvement in fraudulent activities. (Id. ¶ 13.) As a result of 5 AHCCCS’s failure to timely investigate Mr. Kamau’s reports of fraud, “billions of 6 taxpayer dollars [were] stolen.” (Id.) 7 In September 2023, AHCCCS “suddenly stopped paying valid claims submitted by 8 AZITTS,” and Plaintiffs began laying off employees and falling behind on financial 9 obligations. (Id. ¶ 14.) In December 2024, an independent class action was filed against 10 AHCCCS and clearly named Mr. Kamau as “the whistleblower.” (Id.) Plaintiffs assert that 11 AHCCCS’s nonpayment of their claims was in retaliation for Mr. Kamau exposing the 12 agency’s failure to investigate his earlier complaints of fraud. (Id. ¶¶ 15–16.) 13 Plaintiffs sue AHCCCS on the following claims: (1) violation of the False Claims 14 Act (“FCA”) in qui tam; (2) retaliation against Plaintiffs in violation of the FCA; (3) 15 violation of procedural due process rights; (4) violation of substantive due process rights; 16 and (5) injunctive relief. (Id. ¶¶ 17–46.)

17 II. LEGAL STANDARD

18 Rule 12(b)(6) is designed to “test[] the legal sufficiency of a claim.” *Navarro v.*
19 *Block*, 250 F.3d 729, 732 (9th Cir. 2001). A dismissal under Rule 12(b)(6) for failure to 20 state a claim can be based on either: (1) the lack of a cognizable legal theory; or (2) the 21 absence of sufficient factual allegations to support a cognizable legal theory. *Balistreri v.* 22 *Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990). When analyzing a complaint for 23 failure to state a claim, the well-pled factual allegations are taken as true and construed in 24 the light most favorable to the nonmoving party. *Cousins*, 568 F.3d at 1067. A plaintiff 25 must allege “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl. 26 Corp. v. Twombly*, 550 U.S. 544, 570 (2007). “A claim has facial plausibility when the 27 plaintiff pleads factual content that allows the court to draw the reasonable inference that 28 the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 1 (2009) (citing *Twombly*, 550 U.S. at 556). “The plausibility standard is not akin to a 2 ‘probability requirement,’ but it asks for more than a sheer possibility that a defendant has 3 acted unlawfully.” *Id.* 4 “While a complaint attacked by a Rule 12(b)(6) motion does not need detailed 5 factual allegations, a plaintiff’s obligation to provide the grounds of his entitlement to relief 6 requires more than labels and conclusions, and a formulaic recitation of the elements of a 7 cause of action will not do.” *Twombly*, 550 U.S. at 555 (citation modified). Legal 8 conclusions couched as factual allegations are not entitled to the assumption of truth and 9 therefore are insufficient to defeat a motion to dismiss for failure to state a claim. *Iqbal*, 10 556 U.S. at 679–80. However, “a well-pleaded complaint may proceed even if it strikes a 11 savvy judge that actual proof of those facts is improbable, and that recovery is very remote 12 and unlikely.” *Twombly*, 550 U.S. at 556 (citation modified).

13 III. ANALYSIS

14 a. Violation of FCA in Qui Tam 15 The FCA prohibits any “person” from knowingly presenting a false or fraudulent 16 claim to the federal government. 31 U.S.C. § 3729(a)(1). The statute’s qui tam provision 17 allows a private party—often called a “relator”—to file suit for a violation of the FCA in 18 the name of the government. 31 U.S.C. § 3730(b)(1). “It is commonly recognized that the 19 central purpose of the qui tam provisions of the FCA is to set up incentives to supplement 20 government enforcement of the Act by encouraging insiders privy to a fraud on the 21 government to blow the whistle on the crime.” *United States ex rel. Green v. Northrop Corp.*, 59 F.3d 953, 963 (9th Cir. 1995) “The Government may choose to take over the 23 litigation, but the relator otherwise has the right to conduct the action alone.” *Am. Bankers 24 Mgmt. Co. v. Heryford*, 885 F.3d 629, 634 (9th Cir. 2018) (citation modified). 25 AHCCCS argues, and Plaintiffs concede, that the FCA claim fails because 26 AHCCCS, as a state agency, is not a “person” under the FCA. (MTD at 3–4; Resp. at 2).² 27 28 2 This is, after all, a clearly established legal principle in the Ninth Circuit. See, e.g., *Stoner v. Santa Clara Cnty. Office of Ed.*, 502 F.3d 1116, 1120 (9th Cir. 2007). 1 This pleading defect, then, is fatal to Plaintiffs’ qui tam claim. The Court, with the 2 Government’s consent pursuant to § 3730(b)(1) (Doc. 22), dismisses this claim. 3 In the Ninth Circuit, courts freely grant leave to amend a pleading when justice so 4 requires. *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000). Leave must be granted after 5 a pleading is dismissed “if it appears at all possible that the plaintiff can correct the defect.” 6 *Id.* (citation modified). Here, amendment of Count One would be futile as no amount of 7 pleading would cure the defect that AHCCCS is not a “person” within the scope of the 8 FCA, so no leave will be granted. 9 b. Retaliation Under the FCA 10 The FCA provides protections to employees, contractors, or agents who either 11 attempted to stop a violation of the FCA or furthered an action under the FCA against his 12 or her principal and was consequently discriminated against “in the terms and conditions 13 of employment.” 31 U.S.C. § 3730(h). 14 AHCCCS argues that it does not employ Plaintiffs, so they cannot seek the statute’s 15 protections. (MTD at 4.) In response, Plaintiffs contend that the “FCA retaliation 16 protections broadly [] extend to contractors and agents.”³ (Resp. at 3.) Even so, Plaintiffs 17 do not allege that they are employees, contractors or agents of AHCCCS or plead any facts 18 to allow for that inference, so they do not fall within the class for whom the FCA’s 19 retaliation protection apply. It is possible, though, that Plaintiffs can cure this specific 20 pleading defect by alleging additional facts. See *Lopez*, 203 F.3d at 1130. Accordingly, the 21 Court grants Plaintiffs leave to amend Count Two. 22 c. Section 1983 Claims 23 Plaintiffs’ third and fourth claims arise under 42 U.S.C. § 1983 of the Civil Rights 24 Act of 1871 and allege that AHCCCS violated their substantive and procedural due process 25 rights by “withholding” payment of Plaintiffs’ claims. (Compl. ¶¶ 34–40.) Plaintiffs also 26 3 Plaintiffs cite *United States ex. Rel Guzman v. Insys Therapeutic, Inc.*, No. 213CV05861JLSAJW, 2021 WL 4306020, at *3 (C.D. Cal. May 19, 2021), but that case 27 concerned an entirely different aspect of the FCA. Plaintiffs also incorrectly cited the court, year, and reporter, see

People v. Carramusa, No. D073484, 2019 WL 1034229 (Cal. App.

28 Mar. 5, 2019) (a California state criminal appeal), leading this Court to devote its time and resources to locate the correct case that Plaintiffs relied upon. 1 briefly allege that their Thirteenth Amendment rights were violated by AHCCCS requiring 2 Plaintiffs to “continue providing services” to AHCCCS members. (Id. ¶ 39.) 3 AHCCCS argue that these claims must be dismissed because Plaintiffs failed to 4 exhaust administrative remedies⁴ for the denial of claim payment. (MTD at 5–6.) 5 Administrative exhaustion may be a prerequisite for some federal claims, but it is not for 6 § 1983 claims. *Knick v. Twp. of Scott*, 588 U.S. 180, 185 (2019) (“[T]he settled rule is that 7 exhaustion of state remedies is not a prerequisite to an action under 42 U.S.C. § 1983.”) 8 (citation modified); *Patsy v. Bd. of Regents*, 457 U.S. 496, 500 (1982) (“[W]e have on 9 numerous occasions rejected the argument that a § 1983 action should be dismissed where 10 the plaintiff has not exhausted state administrative remedies.”); see *Williams v. Reed*, 604 11 U.S. 168, 174 (2025). 12 AHCCCS cites various cases in support of imposing the exhaustion requirement 13 here. (MTD at 5.) But these cases are inapposite: none of them concerned § 1983 claims. 14 See *Mich. Ass’n of Homes & Servs. for the Aging v. Shalala*, 127 F.3d 496 (6th Cir. 1997) 15 (constitutional challenge to administrative regulations); *Bowen v. Mich. Acad. of Family 16 Physicians*, 476 U.S. 667 (1986) (same); *Samaritan Health Sys. v. Ariz. Health Care Cost 17 Containment Sys. Admin.*, 11 P.3d 1072 (Ariz. App. 2000) (same); *FTC v. Standard Oil 18 Co.*, 449 U.S. 232 (1980) (violations of the Federal Trade Commission Act); *Phx. 19 Children’s Hosp. v. Ariz. Health Care Cost Containment Sys. Admin.*, 987 P.2d 763 (Ariz. 20 App. 1999) (constitutional challenge to an unpromulgated administrative rule).

21 Accordingly, the Court declines to dismiss Counts Three and Four for lack of 22 administrative exhaustion. 23 Next, AHCCCS argues that “Plaintiffs cannot show a deprivation of procedural or 24 substantive due process unless and until their administrative remedies are exhausted and a 25 final decision issued.” (MTD at 6.) Whether Plaintiffs can ultimately prove their claims, 26 however, is not the correct standard at this stage of the proceedings.⁵ Rather, the standard 27 4 According to AHCCCS, the Arizona legislature has established an administrative procedure for disputes regarding AHCCCS’s non-payment for services. (See MTD at 5.) 28 5 It is possible that one or more of Plaintiffs’ § 1983 claims may ultimately be premature if they failed to use an available administrative process to address their grievances. For 1 is whether Plaintiffs sufficiently state a claim based on a cognizable legal theory when 2 taking the well-pled factual allegations as true and construing them in the light most 3 favorable to Plaintiffs. Because AHCCCS advances no other arguments that the § 1983 4 claims or facts supporting those claims are insufficiently pled, those claims survive. 5 d. Injunctive Relief 6 Styled as their fifth claim, Plaintiffs assert that they are entitled to injunctive relief. 7 (Compl. ¶¶ 41–46.) Even if they are, “[i]njunctive relief is a remedy, not an independent 8 cause of action,” *Long v. JP Morgan Chase Bank*, 848 F. Supp. 2d 1166, 1180 (D. Haw. 9 2012) (citation modified), and “a separately pled claim or cause of action for injunctive 10 relief is inappropriate,” *Jensen v. Quality Loan Serv. Corp.*, 702 F. Supp. 2d 1183,

1201 11 (E.D. Cal. 2010). The Court dismisses this claim with prejudice. Omar v. Sea-Land Serv.,
12 Inc., 813 F.2d 986, 991 (9th Cir. 1987) (“A trial court may dismiss a claim sua sponte 13 under
Fed. R. Civ. P. 12(b)(6). Such a dismissal may be made without notice where the 14 claimant
cannot possibly win relief.”) (citation modified). 15 e. Monell Claims 16 Plaintiffs request that
they “should be granted leave to amend to enhance Monell 17 allegations showing AHCCCS
maintained official policies and practices resulting in 18 systemic constitutional violations.”
(Resp. at 4.) Federal Rule of Civil Procedure 15(a)(2) 19 provides that leave to amend should be
freely granted “when justice so requires.” But, as 20 AHCCCS points out (Reply at 5), Plaintiffs’
request is procedurally deficient. Plaintiffs 21 fail to attach a copy of the proposed amendment as
required by Local Rule 15.1(a). 22 Accordingly, the Court denies Plaintiffs’ request to amend their
pleading to “enhance” 23 potential Monell claims. 24 IT IS THEREFORE ORDERED granting in
part and denying in part Defendant’s 25 Motion to Dismiss (Doc. 8). 26 instance, “a procedural
due process claim is not complete when the deprivation occurs. Rather, the claim is complete only
when the State fails to provide due process.” See 27 Williams, 604 U.S. at 176 n.4 (noting that “a
plaintiff who asserts a due process claim without exhausting will usually lose because of the
requirement that the challenged 28 procedural deprivation must have already occurred”). But the
Court need not address the merits of Plaintiffs’ due process claims now. 1 IT IS FURTHER
ORDERED dismissing Counts One, Two, and Five of Plaintiffs’ || Complaint for Violation of 31
U.S.C. §§ 3729-3733; 42 U.S.C. § 1983; Declaratory Relief; 3 || and Injunctive Relief (Doc. 1). 4
IT IS FURTHER ORDERED that, no later than fourteen days from the date of 5 || this Order,
Plaintiffs may file an amended pleading that cures only the defects identified in 6 || Count Two.
Should Plaintiffs desire to add other claims or parties, they shall separately || move the Court for
leave to do so and abide by the requirements of Federal Rule of Civil 8 || Procedure 15 and Local
Rule 15.1. 9 Dated this 2nd day of March, 2026. CN 11 wef holee— Unifgd State#District Judge
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