

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Peacock v. LifeHealth LLC

Peacock · No. 2:24-cv-2939-JDP · Decided April 9, 2025

SUMMARY

The United States District Court for the Eastern District of California granted LifeHealth LLC's motion to dismiss Victoria Peacock's first amended complaint. The court dismissed the FMLA interference claim with leave to amend because the allegations did not sufficiently show that FMLA leave was a negative factor in the termination decision, and declined supplemental jurisdiction over the remaining state-law claims. Plaintiff was given thirty days to amend, or the action would be remanded to state court.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 9, 2025
DOCKET	2:24-cv-2939-JDP
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss plaintiff's first amended complaint asserting FMLA and California employment-law claims.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true, construes them in the plaintiff's favor, and asks whether the complaint states a facially plausible claim for relief. A pro se complaint is construed liberally but may be dismissed when the plaintiff can prove no set of facts entitling her to relief.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Victoria Peacock v. LifeHealth LLC

TOPICS

- family and medical leave act
- wrongful termination
- motions to dismiss
- subject matter jurisdiction

PRACTICE AREAS

employment law

civil procedure

civil rights

QUESTIONS PRESENTED

1. Whether the amended complaint plausibly alleged that Peacock's use of FMLA leave was a negative factor in LifeHealth's decision to terminate her.
2. Whether the court should exercise supplemental jurisdiction over the remaining California-law claims after dismissing the sole federal claim.

HOLDINGS

1. The amended complaint failed to plead sufficient facts to support an inference that Peacock's FMLA leave was a negative factor in the termination decision. The twenty-eight-day gap between her return from leave and termination, together with nonspecific allegations of disparaging comments, was insufficient.
2. The court declined to exercise supplemental jurisdiction over Peacock's remaining California-law claims after dismissing the only federal claim.

KEY QUOTATIONS

"Here, the twenty-eight-day gap between plaintiff's return and termination, standing alone, is insufficient to support her FMLA claim." (Discussion, FMLA claim)

"Plaintiff's FMLA claim is dismissed with leave to amend." (Order ¶ 2)

FACTUAL BACKGROUND

Victoria Peacock worked as a care coordinator for LifeHealth LLC and took FMLA leave beginning in May 2023. She returned to work on a part-time basis on September 1, 2023, and was terminated on September 29, 2023. She alleged that her manager sought to terminate her because of her medical leave, race, and prior complaints about Labor Code violations, and alleged disparaging comments concerning her leave and race.

PROCEDURAL HISTORY

Plaintiff filed the action in Sacramento County Superior Court, and defendant removed it to federal court. Defendant's initial motion to dismiss became moot after plaintiff filed a first amended complaint. The court granted defendant's renewed motion, dismissed the FMLA claim with leave to amend, declined supplemental jurisdiction over the state-law claims, and permitted amendment within thirty days, after which the action would be remanded if no amended complaint was filed.

DISPOSITION

dismissed

REMAND INSTRUCTIONS

Plaintiff may file an amended complaint within thirty days. If she does not, the action will be remanded to Sacramento County Superior Court. The state-law claims were dismissed without prejudice after the court declined supplemental jurisdiction.

CASES CITED

- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 556, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Chubb Custom Insurance Co. v. Space Systems/Loral, Inc., 710 F.3d 946, 956 (9th Cir. 2013)
- Akhtar v. Mesa, 698 F.3d 1202, 1212 (9th Cir. 2012)
- Haines v. Kerner, 404 U.S. 519, 520 (1972) (per curiam)
- Hayes v. Idaho Correctional Center, 849 F.3d 1204, 1208 (9th Cir. 2017)
- Franklin v. Murphy, 745 F.2d 1221, 1228-29 (9th Cir. 1984)
- Xin Liu v. Amway Corp., 347 F.3d 1125, 1135-37 (9th Cir. 2003)
- Bachelder v. American West Airlines, Inc., 259 F.3d 1112, 1124-25 (9th Cir. 2001)
- Madick v. Presidio, Inc., 680 F. Supp. 3d 1135, 1148 (C.D. Cal. 2023)
- Carnegie-Mellon University v. Cohill, 484 U.S. 343, 350 n.7 (1988)
- United Mine Workers of America v. Gibbs, 383 U.S. 715, 726 (1966)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 VICTORIA PEACOCK, Case No. 2:24-cv-2939-JDP 12 Plaintiff, 13 v.
ORDER 14 LIFEHEALTH LLC, 15 Defendant. 16 17 18 Plaintiff Victoria Peacock brings this
wrongful termination action against her former 19 employer, LifeHealth LLC. She alleges
violations of the Family and Medical Leave Act 20 (“FMLA”), California’s Fair Employment and
Housing Act (“FEHA”), and California’s Labor 21 Code.

Defendant moves to dismiss. I will grant defendant’s motion. 22 Procedural Background 23
Plaintiff commenced this action in Sacramento County Superior Court. ECF No. 1. 24 Defendant
removed and filed a motion to dismiss on October 31, 2024. ECF No. 6. Plaintiff 25 filed a first
amended complaint on November 20, 2024. ECF No. 11.

In light of the amended 26 complaint, the court denied defendant’s motion as moot. ECF No. 12.
Defendant has now 27 moved to dismiss the first amended complaint. 28 1 Factual Allegations 2
Plaintiff alleges in the amended complaint that she worked as a care coordinator for 3 defendant’s
non-clinical case management team in March 2022. ECF No. 11 at 2. That team 4 provided
medical and dental non-clinical case support for the California Army National Guard.

5 Id. In May 2023, plaintiff took a leave of absence under the Family and Medical Leave Act 6
 (“FMLA”); she returned to work on a part-basis on September 1, 2023. Id. Plaintiff was 7
terminated on September 29, 2023. Id. at 4. 8 When plaintiff returned to work in September, she

had new manager, Sarah Gregory, who 9 allegedly “set out to terminate [p]laintiff for a variety of different reasons including, but not 10 limited to, [p]laintiff’s race, [p]laintiff’s past complaints about Labor Code violations and her 11 assistance in a government investigation of those complaints, and because of [p]laintiff’s requests 12 for medical leave.” Id. at 1.

Plaintiff alleges that eight days after she returned to work, she 13 received an email from Gregory stating, 14 In regard to work - I wanted to let you know that I have not received any complaints etc. from SFC Adams in regards to your 15 work. I know that it can be hard getting back into the work routine when you have been out as well as trying to heal from a major 16 injury.

I would suggest that you continue to do to work, get your work done and then head home. Continue to do a great job at work 17 and don’t let others interfere with it. 18 Id. at 3. 19 Plaintiff claims that defendant made disparaging comments about plaintiff’s medical 20 leave, complained that plaintiff’s medical leave made her unreliable, and, because of plaintiff’s 21 prior complaints about Labor Code violations, blamed plaintiff for the company’s obligations to 22 comply with Labor Code provisions.

Id. at 2-3. 23 Plaintiff alleges that she is black and that the defendant favored individuals of Asian 24 descent, promoting them and paying them more than she did black employees. Id. at 2. She also 25 claims that defendant made statements suggesting that employees who dated black individuals 26 were considered to be “dating down,” and that individuals dating other races were “dating up.” 27 Id. 28 1 Plaintiff brings six causes of action: 1 wrongful termination under FEHA and FMLA, race 2 discrimination and hostile work environment under FEHA, and retaliation under California 3 Family Rights Act and California Labor Code section 246.5.

4 Legal Standard 5 A complaint may be dismissed for “failure to state a claim upon which relief may be 6 granted.” Fed. R. Civ. P. 12(b)(6). To survive a motion to dismiss for failure to state a claim, a 7 plaintiff must allege “enough facts to state a claim to relief that is plausible on its face.” Bell Atl. 8 Corp. v. Twombly, 550 U.S. 544, 570 (2007). A claim has “facial plausibility when the plaintiff 9 pleads factual content that allows the court to draw the reasonable inference that the defendant is 10 liable for the misconduct alleged.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing Twombly, 11 550 U.S. at 556).

The plausibility standard is not akin to a “probability requirement,” but it 12 requires more than a sheer possibility that a defendant has acted unlawfully. Iqbal, 556 U.S. at 13 678. 14 For purposes of dismissal under Rule 12(b)(6), the court generally considers only 15 allegations contained in the pleadings, exhibits attached to the complaint, and matters properly 16 subject to judicial notice, and construes all well-pleaded material factual allegations in the light 17 most favorable to the nonmoving party.

Chubb Custom Ins. Co. v. Space Sys./Loral, Inc., 710 F.3d 946, 956 (9th Cir. 2013); Akhtar v. Mesa, 698 F.3d 1202, 1212 (9th Cir. 2012). The court construes a pro se litigant's complaint liberally, see Haines v. Kerner, 404 U.S. 519, 520 (1972) (per curiam), and will only dismiss a pro se complaint "if it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief," Hayes v. Idaho Corr.

Ctr., 849 F.3d 1204, 1208 (9th Cir. 2017) (quoting Nordstrom v. Ryan, 762 F.3d 23 903, 908 (9th Cir. 2014)). Dismissal under Rule 12(b)(6) can be based on either: (1) lack of a cognizable legal theory, or (2) insufficient facts under a cognizable legal theory. Chubb Custom Ins. Co., 710 F.3d 26 27 1 Plaintiff voluntarily abandoned her seventh cause of action, for violation of California Labor Code § 98.6.

ECF No. 14 at 5 ("Peacock is abandoning Claim 7, 'Wrongful termination for Violation of Labor Code § 98.6.'). Dismissal also is appropriate if the complaint alleges a fact that necessarily defeats the claim. Franklin v. Murphy, 745 F.2d 1221, 1228-29 (9th Cir. 1984). Defendant moves to dismiss each of plaintiff's cause of action; however, since the complaint asserts that jurisdiction arises under 28 U.S.C. § 1331, and because plaintiff's sole federal claim is dismissed, the court declines to exercise supplemental jurisdiction over the remaining state law claims.

The FMLA provides that "[i]t shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided." 29 U.S.C. § 2615(a)(1). "[E]mployers cannot use the taking of FMLA leave as a negative factor in employment actions, such as hiring, promotions or disciplinary actions; nor can FMLA leave be counted under no fault attendance policies." 29 C.F.R. § 825.220(c).

The Ninth Circuit has held that "an employee may prevail on a claim that an employer interfered with her rights by terminating her in violation of [the] FMLA by showing... that her taking of FMLA protected leave constituted a negative factor in the decision to terminate her. She can prove this claim, as one might any ordinary statutory claim, by using either direct or circumstantial evidence, or both." Xin Liu v. Amway Corp., 347 F.3d 1125, 1135-36 (9th Cir.

2003) (quoting Bachelder v. Am. W. Airlines, Inc., 259 F.3d 1112, 1125 (9th Cir. 2001)). As an initial matter, there appears to be some confusion as to the nature of plaintiff's FMLA claim. See ECF No. 13 at 12-13.

However, in her opposition, plaintiff explains that she alleges only an interference claim, and not a retaliation claim, under the FMLA. ECF No. 14 at 22 10; see Xin Liu, 347 F.3d at 1136 (citing Bachelder, 259 F.3d at 1124).

The allegations match this interpretation. See ECF No. 11 at 2 (alleging that plaintiff's "new manager set out to terminate [p]laintiff... because of [p]laintiff's requests for medical leave");

id. at 2-3 (alleging 25 that defendant's "management made disparaging comments about [p]laintiff's medical leave, 26 claiming she was unreliable because she was on medical leave").

27 For an interference claim, the court must decide whether plaintiff has alleged sufficient 28 facts to demonstrate that her FMLA leave was a negative factor in defendant's decision to 1 terminate. To support this claim, plaintiff points to the temporal proximity of her return from 2 leave and her termination, as well as an assertion that her manager set out to terminate her 3 because she used medical leave.

ECF No. 14 at 10-11. 4 In support, plaintiff cites *Xin Liu* for the proposition that temporal proximity between a 5 return from leave and termination supports an inference of unlawful interference.² See *Xin Liu*, 6 347 F.3d at 1137.

However, in that case, the Ninth Circuit found that the plaintiff's claim was 7 supported by more than just the temporal proximity of her return and termination. The court 8 considered the supervisor's attitude towards the plaintiff's leave, the supervisor's repeated denials 9 of the plaintiff's leave, and comments about the supervisor's increased workload due to the 10 plaintiff's leave.

Id. 11 Here, the twenty-eight-day gap between plaintiff's return and termination, standing alone, 12 is insufficient to support her FMLA claim. Moreover, plaintiff's allegation that defendant's 13 employee made disparaging remarks about plaintiff's leave is devoid of specifics.

The complaint 14 does not indicate when the comments were made, who made each comment, and does not point to 15 anything else to support the inference that plaintiff's termination was a result of taking leave. 16 Accordingly, plaintiff's FMLA claim is dismissed with leave to amend. 17 Plaintiff's remaining causes of action allege violations of California law.

Because the 18 amended complaint fails to establish diversity jurisdiction, the court's jurisdiction depends on 19 whether the plaintiff asserts a claim arising under federal law.³ See 28 U.S.C. §§ 1331, 1332. 20 Having dismissed plaintiff's FMLA claim—the only federal claim—and after weighing the 21 factors of judicial economy, convenience, fairness, and comity, the court declines to exercise 22 supplemental jurisdiction over plaintiff's state-law claims and dismisses such claims without 23 prejudice.

See 28 U.S.C. § 1367(c)(3) (district court may decline supplemental jurisdiction over 24 2 Curiously, plaintiff also cites *Madick v. Presidio, Inc.*, 680 F. Supp. 3d 1135, 1148 (C.D. 25 Cal. 2023). In that case, the court found that the plaintiff's temporal proximity argument unavailing. Plaintiff seems to rely on this case to show that the allegation of temporal proximity, 26 standing alone, is sufficient to plead a FMLA claim.

However, the Madick court addressed the 27 plaintiff's other allegations that he claimed gave rise to his claim, including the allegation that the defendant breached an agreement and failed to engage in the interactive process. Id. 28 3 The plaintiff only seeks \$35,000 in damages. ECF No. 11 at 10. 1 | claim where "court has dismissed all claims over which it has original jurisdiction"); Carnegie- 2 | Mellon Univ. v. Cohill, 484 U.S. 343, 350 n.7 (1988) ("[I]n the usual case in which all federal-law 3 | claims are eliminated before trial, the balance of factors to be considered under the pendent 4 | jurisdiction doctrine—judicial economy, convenience, fairness, and comity—will point toward 5 | declining to exercise jurisdiction over the remaining state-law claims."); United Mine Workers of 6 | Am. v. Gibbs, 383 U.S. 715, 726 (1966) ("Needless decisions of state law should be avoided both 7 | as amatter of comity and to promote justice between the parties, by procuring for them a surer- 8 | footed reading of the applicable law.").

9 Accordingly, it is hereby ORDERED that: 10 1. Defendant's motion to dismiss, ECF No. 13, is GRANTED. 11 2. Plaintiff's FMLA claim is dismissed with leave to amend. 12 3. The court declines to exercise supplemental jurisdiction over plaintiff's state law 13 | claims. 14 4. Plaintiff may file an amended complaint within thirty days. If plaintiff fails to do so, 15 | this action will be remanded back to the Sacramento County Superior Court.

16 7 IT IS SO ORDERED. 18 (1 Oy — Dated: _ April 9, 2025 Q——— 19 JEREMY D. PETERSON UNITED STATES MAGISTRATE JUDGE 21 22 23 24 25 26 27 28