

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

OPINION

Peacock v. LifeHealth LLC

PER CURIAM.

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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 18 F.3d 946, 956 (9th Cir. 2013); Akhtar v. Mesa, 698 F.3d 1202, 1212 (9th Cir. 2012). The court 19 construes a pro se litigant's complaint liberally, see Haines v. Kerner, 404 U.S. 519, 520 (1972) 20 (per curiam), and will only dismiss a pro se complaint "if it appears beyond doubt that the 21 plaintiff can prove no set of facts in support of his claim which would entitle him to relief," Hayes 22 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)). 24 Dismissal under Rule 12(b)(6) can be based on either: (1) lack of a cognizable legal 25 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 28 for Violation of Labor Code § 98.6.'"). 1 at 956. Dismissal also is appropriate if the complaint alleges a fact that necessarily defeats the 2 claim. Franklin v. Murphy, 745 F.2d 1221, 1228-29 (9th Cir. 1984). 3 Discussion 4 Defendant moves to dismiss each of plaintiff's cause of action;

however, since the 5 complaint asserts that jurisdiction arises under 28 U.S.C. § 1331, and because plaintiff's sole 6 federal claim is dismissed, the court declines to exercise supplemental jurisdiction over the 7 remaining state law claims. 8 The FMLA provides that "[i]t shall be unlawful for any employer to interfere with, 9 restrain, or deny the exercise of or the attempt to exercise, any right provided." 29 U.S.C. 10 § 2615(a)(1). "[E]mployers cannot use the taking of FMLA leave as a negative factor in 11 employment actions, such as hiring, promotions or disciplinary actions; nor can FMLA leave be 12 counted under no fault attendance policies." 29 C.F.R. § 825.220(c). The Ninth Circuit has held 13 that "an employee may prevail on a claim that an employer interfered with her rights by 14 terminating her in violation of [the] FMLA by showing . . . that her taking of FMLA protected 15 leave constituted a negative factor in the decision to terminate her. She can prove this claim, as 16 one might any ordinary statutory claim, by using either direct or circumstantial evidence, or 17 both.'" *Xin Liu v. Amway Corp.*, 347 F.3d 1125, 1135-36 (9th Cir. 2003) (quoting *Bachelder v. 18 Am. W. Airlines, Inc.*, 259 F.3d 1112, 1125 (9th Cir. 2001)). 19 As an initial matter, there appears to be some confusion as to the nature of plaintiff's 20 FMLA claim. See ECF No. 13 at 12-13. However, in her opposition, plaintiff explains that she 21 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 23 this interpretation. See ECF No. 11 at 2 (alleging that plaintiff's "new manager set out to 24 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

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