

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Robert Cauley v. Michael Barme

No. CV 23-1608-DMG (PDx) (C.D. Cal. Mar. 14, 2023) · No. CV 23-1608-DMG (PDx); 2:23-cv-01608-DMG-PD · Decided March 14, 2023

SUMMARY

The United States District Court for the Central District of California ordered the plaintiff to show cause why the court should exercise supplemental jurisdiction over state-law claims arising from alleged disability-access violations. The court directed the plaintiff and counsel to provide information concerning statutory damages and whether they qualify as high-frequency litigants, warning that inadequate responses could result in dismissal of the state-law claims.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Dolly M. Gee
JURISDICTION	United States District Court for the Central District of California
DECIDED	March 14, 2023
DOCKET	CV 23-1608-DMG (PDx); 2:23-cv-01608-DMG-PD
DISPOSITION	other
PROCEDURAL POSTURE	The plaintiff filed a complaint asserting a federal claim for injunctive relief under the Americans with Disabilities Act and state-law claims for damages under the Unruh Civil Rights Act, the Disabled Persons Act, the Health and Safety Code, and negligence. The court issued an order to show cause requiring the plaintiff to explain why the court should exercise supplemental jurisdiction over the state-law claims.
STANDARD OF REVIEW	Whether to exercise supplemental jurisdiction under 28 U.S.C. § 1367(c) is discretionary and requires consideration of judicial economy, convenience, fairness, and comity; under § 1367(c)(4), exceptional circumstances may justify declining jurisdiction.
PRECEDENTIAL VALUE	unpublished, nonprecedential district-court order
PARTIES	Robert Cauley v. Michael Barme

TOPICS

subject matter jurisdiction

civil procedure

ada / disability

public accommodations discrimination

PRACTICE AREAS

federal civil procedure

supplemental jurisdiction

Americans with Disabilities Act

California disability-access litigation

QUESTIONS PRESENTED

1. Whether the court should exercise supplemental jurisdiction over the plaintiff's Unruh Act, Disabled Persons Act, Health and Safety Code, and negligence claims.
2. Whether the plaintiff and counsel qualified as high-frequency litigants under California law and whether that circumstance affected the discretionary exercise of supplemental jurisdiction.

KEY QUOTATIONS

"In light of the foregoing, the Court orders Plaintiff to show cause in writing why the Court should exercise supplemental jurisdiction over the Unruh Act, Disabled Persons Act, Health & Safety Code, and Negligence claims." (2)

"Failure to timely or adequately respond to this Order to Show Cause may, without further warning, result in the Court declining to exercise supplemental jurisdiction over the Unruh Act, Disabled Persons Act, Health & Safety Code, and Negligence claims and the dismissal of any such claims pursuant to 28 U.S.C. section 1367(c)." (2)

FACTUAL BACKGROUND

The complaint alleged an ADA violation involving disability access and sought injunctive relief under federal law. It also asserted state-law claims for damages under the Unruh Civil Rights Act, the Disabled Persons Act, the Health and Safety Code, and negligence. The court noted California's heightened pleading requirements and high-frequency-litigant provisions designed to address allegedly baseless or vexatious disability-access litigation.

PROCEDURAL HISTORY

The action was pending in the Central District of California following the filing of plaintiff's complaint. The court determined that it appeared to have supplemental jurisdiction over the state-law claims under 28 U.S.C. § 1367(a), but did not make a final jurisdictional determination. Instead, it ordered plaintiff to respond in writing, identify the statutory damages sought, and submit declarations concerning whether plaintiff and counsel qualified as high-frequency litigants under California law.

DISPOSITION

other

CASES CITED

- City of Chicago v. International College of Surgeons, 522 U.S. 156, 173, 118 S. Ct. 523, 534 (1997)
- Carnegie-Mellon University v. Cohill, 484 U.S. 343, 350 (1988)
- Schutza v. Cuddeback, 262 F. Supp. 3d 1025, 1031 (S.D. Cal. 2017)
- Arroyo v. Rosas, 19 F.4th 1202, 1211 (9th Cir. 2021)

OPINION

Robert Cauley v. Michael Barme

PER CURIAM.

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES—GENERAL

Case No. CV 23-1608-DMG (PDx) Date March 14, 2023 Title Robert Cauley v. Michael Barme

Page 1 of 2 Present: The Honorable DOLLY M. GEE, UNITED STATES DISTRICT JUDGE

KANE TIEN NOT REPORTED

Deputy Clerk Court Reporter Attorneys Present for Plaintiff(s) Attorneys Present for Defendant(s)

None Present None Present Proceedings: IN CHAMBERS—ORDER TO SHOW CAUSE WHY THE COURT

SHOULD NOT DECLINE TO EXERCISE SUPPLEMENTAL

JURISDICTION OVER PLAINTIFF’S STATE LAW CLAIMS

The Complaint filed in this action asserts a claim for injunctive relief arising out of an alleged violation of the Americans with Disabilities Act (“ADA”), 42 U.S.C. sections 12010- 12213, and a claim for damages pursuant to California’s Unruh Civil Rights Act (“Unruh Act”), Cal. Civ. Code sections 51-53. It appears that the Court has supplemental jurisdiction over the Unruh Act, Disabled Persons Act, Health & Safety Code, and Negligence claims. See 28 U.S.C. section 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, 118 S. Ct. 523, 534 (1997) (emphasis added) (quoting Carnegie-Mellon Univ. v. Cohill, 484 U.S. 343, 350 (1988)).

In 2012, California adopted a heightened pleading standard for lawsuits brought under the Unruh Act to combat the influx of baseless claims and vexatious litigation in the disability access litigation sphere. Cal. Civ. Code § 55.52(a)(1). The stricter pleading standard requires a plaintiff bringing construction-access claims to file a verified complaint alleging specific facts concerning the plaintiff’s claim, including the specific barriers encountered or how the plaintiff was deterred and each date on which the plaintiff encountered each barrier or was deterred. See Cal. Civ. Proc. Code § 425.50(a). California also imposed a “high-frequency litigant fee” in 2015 in response to the “special and unique circumstances” presented by certain plaintiffs and law firms filing an

outsized number of Unruh Act lawsuits. Cal. Gov't Code § 70616.5. In recognition of California's efforts to reduce the abuse of California's disability access laws, some district courts within the state have determined that the interests of fairness and comity, CV-90 CIVIL MINUTES—GENERAL Initials of Deputy Clerk KT Case 2:23-cv-01608-DMG-PD Document 11 Filed 03/14/23 Page 2 of 2 Page ID #:44

UNITED STATES DISTRICT COURT
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Page 2 of 2 counsel against exercising supplemental jurisdiction over construction-access claims brought under the Unruh Act. See, e.g., *Schutza v. Cuddeback*, 262 F. Supp. 3d 1025, 1031 (S.D. Cal. 2017) (“[T]he Court finds it would be improper to allow Plaintiff [a high frequency litigant] to use federal court as an end-around to California’s pleading requirements. Therefore, as a matter of comity, and in deference to California’s substantial interest in discouraging unverified disability discrimination claims, the Court declines supplemental jurisdiction over Plaintiff’s Unruh Act claim.”); see also *Arroyo v. Rosas*, 19 F.4th 1202, 1211 (9th Cir. 2021) (“The district court’s principal justification for declining supplemental jurisdiction was that the distinctive configuration of California-law rules . . . would be rendered ineffectual if the district court were to exercise supplemental jurisdiction. We hold that the district court did not abuse its discretion in concluding that, for this reason, this case presents ‘exceptional circumstances’ within the meaning of § 1367(c)(4).”). In light of the foregoing, the Court orders Plaintiff to show cause in writing why the Court should exercise supplemental jurisdiction over the Unruh Act, Disabled Persons Act, Health & Safety Code, and Negligence claims. 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 his 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 by March 24, 2023. Failure to timely or adequately respond to this Order to Show Cause may, without further warning, result in the Court declining to exercise supplemental jurisdiction over the Unruh Act, Disabled Persons Act, Health & Safety Code, and Negligence claims and the dismissal of any such claims pursuant to 28 U.S.C. section 1367(c). IT IS SO ORDERED. CV-90 CIVIL MINUTES—GENERAL Initials of Deputy Clerk KT