

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Theresa Brooke v. Miramar Acquisition Co LLC

Brooke · No. 2:25-cv-03320-JLS-JPR · Decided April 23, 2025

SUMMARY

The Central District of California ordered Plaintiff Theresa Brooke to show cause why the court should not decline supplemental jurisdiction over her California Unruh Act claim arising from alleged disability-access violations under the Americans with Disabilities Act. The court directed Plaintiff to identify the statutory damages sought and provide declarations concerning whether Plaintiff and counsel are high-frequency litigants under California law. The court warned that failure to respond, or an inadequate response, could result in dismissal of the action or the Unruh Act claim.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Josephine L. Staton
JURISDICTION	U.S. District Court for the Central District of California
DECIDED	April 23, 2025
DOCKET	2:25-cv-03320-JLS-JPR
DISPOSITION	other
PROCEDURAL POSTURE	The court issued an order to show cause directing Plaintiff to explain why the court should not decline supplemental jurisdiction over the California Unruh Act claim accompanying the federal Americans with Disabilities Act claim.
STANDARD OF REVIEW	Discretionary consideration under 28 U.S.C. § 1367(c), guided by the circumstances of the case, the nature of the state-law claims, the character of the governing state law, and the relationship between the federal and state claims.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- subject matter jurisdiction
- civil procedure
- public accommodations discrimination
- architectural barriers
- ada / disability

PRACTICE AREAS

Civil procedure

Americans with Disabilities Act

California Unruh Civil Rights Act

Supplemental jurisdiction

QUESTIONS PRESENTED

1. Whether the court should exercise supplemental jurisdiction over Plaintiff's California Unruh Act claim.
2. Whether Plaintiff should be required to identify the statutory damages sought and provide information regarding Plaintiff's and counsel's possible status as high-frequency litigants.

HOLDINGS

1. The court deferred the jurisdictional determination and ordered Plaintiff to show cause why the court should not decline supplemental jurisdiction over the Unruh Act claim under 28 U.S.C. § 1367(c).
2. Plaintiff was ordered to respond within ten days, identify the statutory damages sought, and provide sworn declarations addressing whether Plaintiff and counsel were high-frequency litigants.

KEY QUOTATIONS

“In an action over which a district court possesses original jurisdiction, that court “shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.””

“Accordingly, Plaintiff is ORDERED to show cause, in writing, no later than ten (10) days from the date of this Order, why the Court should not decline to exercise supplemental jurisdiction over Plaintiff’s Unruh Act claim.”

FACTUAL BACKGROUND

The Complaint alleged a violation of the federal Americans with Disabilities Act and sought injunctive relief. It also asserted a California Unruh Act claim seeking statutory damages based on alleged construction-related accessibility violations. The court noted California's heightened pleading, filing-fee, and other restrictions on construction-related accessibility claims and high-frequency litigants.

PROCEDURAL HISTORY

Plaintiff filed an action asserting an ADA claim for injunctive relief and a California Unruh Act claim for damages. Before resolving whether to retain the state-law claim, the district court ordered Plaintiff to show cause and provide information concerning the amount of statutory damages and whether Plaintiff and counsel qualified as high-frequency litigants. The court warned that failure to respond could result in dismissal of the entire action without prejudice and that an inadequate response would result in dismissal of the Unruh Act claim under 28 U.S.C. § 1367(c).

DISPOSITION

other

CASES CITED

- Velez v. Il Fornaio (America) Corp., CV 3:18-1840 CAB (MDD), 2018 WL 6446169, at *6 (S.D. Cal. Dec. 10, 2018)
- City of Chicago v. International College of Surgeons, 522 U.S. 156, 173 (1997)
- Link v. Wabash Railroad Co., 370 U.S. 626, 629-33 (1962)
- Hells Canyon Preservation Council v. U.S. Forest Service, 403 F.3d 683, 689 (9th Cir. 2005)

OPINION

CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES – GENERAL Case No. 2:25-cv-03320-JLS-JPR Date: April 23, 2025 Title: Theresa Brooke v. Miramar Acquisition Co LLC Present: HONORABLE JOSEPHINE L. STATON, UNITED STATES DISTRICT JUDGE Kelly Davis N/A Deputy Clerk Court Reporter ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT: Not Present Not Present PROCEEDINGS: (IN CHAMBERS) ORDER TO SHOW CAUSE RE SUPPLEMENTAL JURISDICTION The Complaint filed in this action asserts a claim for injunctive relief arising out of an alleged violation of the federal Americans with Disabilities Act and a claim for damages pursuant to California’s Unruh Act.

Accordingly, the Court ORDERS Plaintiff to show cause why the Court should not decline to exercise supplemental jurisdiction over Plaintiff’s Unruh Act claim. See 28 U.S.C. § 1367(c). “In 2012, in an attempt to deter baseless claims and vexatious litigation, California adopted heightened pleading requirements for disability discrimination lawsuits under the Unruh Act.” Velez v. Il Fornaio (America) Corp., CV 3:18-1840 CAB (MDD), 2018 WL 6446169, at *6 (S.D.

Cal. Dec. 10, 2018). These heightened pleading requirements apply to actions alleging a “construction-related accessibility claim,” which California law defines as “any civil claim in a civil action with respect to a place of public accommodation, including but not limited to, a claim brought under Section 51, 54, 54.1, or 55, based wholly or in part on an alleged violation of any construction-related accessibility standard.” Cal. Civ.

Code § 55.52(a)(1). Moreover, California imposes additional limitations on “high-frequency litigants,” defined as: A plaintiff who has filed 10 or more complaints alleging a construction-related accessibility violation within the 12-month period immediately preceding the filing of the current complaint alleging a construction-related accessibility violation.

CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES – GENERAL Case No. 2:25-cv-03320-JLS-JPR Date: April 23, 2025 Title: Theresa Brooke v. Miramar Acquisition Co LLC Cal. Civ.

Proc. Code § 425.55(b)(1). The definition of “high-frequency litigant” also extends to attorneys. See Cal. Civ. Proc. Code § 425.55(b)(2). “High frequency litigants” are subject to a special filing fee and further heightened pleading requirements. See Cal. Gov. Code § 70616.5; Cal. Civ. Proc. Code § 425.50(a)(4)(A). By enacting restrictions on the filing of construction-related accessibility claims, California has expressed a desire to limit the financial burdens California’s businesses may face for claims for statutory damages under the Unruh Act.

Plaintiffs who file these actions in federal court evade these limits and pursue state law damages in a manner inconsistent with the state law’s requirements. In an action over which a district court possesses original jurisdiction, that court “shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.” 28 U.S.C. § 1367(a).

Even if supplemental jurisdiction exists, however, district courts have discretion to decline to exercise supplemental jurisdiction. 28 U.S.C. § 1367(c). Such discretion may be exercised “[d]epending on a host of factors” including “the circumstances of the particular case, the nature of the state law claims, the character of the governing state law, and the relationship between the state and federal claims.” *City of Chicago v. Int’l Coll. of Surgeons*, 522 U.S. 156, 173 (1997).

Accordingly, Plaintiff is ORDERED to show cause, in writing, no later than ten (10) days from the date of this Order, why the Court should not decline to exercise supplemental jurisdiction over Plaintiff’s Unruh Act claim.

In so responding, Plaintiff is further ORDERED to: (1) identify the amount of statutory damages Plaintiff seeks to recover; and (2) provide declarations from Plaintiff and Plaintiff’s counsel, signed under penalty of perjury, providing all facts necessary for the Court to determine if each is a “high-frequency litigant.” Failure to respond may, without further warning, result in dismissal of the entire action without prejudice.

Fed. R. Civ. P. 41(b) (stating that dismissal is warranted “[i]f the plaintiff fails to ... comply with ... a court order”); see *Link v. Wabash R. Co.*, 370 U.S. 626, 629-33 (1962) (holding that while Rule 41(b) explicitly authorizes motions to

CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES – GENERAL Case No. 2:25-cv-03320-JLS-JPR Date: April 23, 2025 Title: Theresa Brooke v. Miramar Acquisition Co LLC dismiss by defendants, it also permits the district court to dismiss sua sponte); see also *Hells Canyon Pres.*

Council v. U.S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005). Further, an inadequate response will result in the Court declining to exercise supplemental jurisdiction over Plaintiff’s Unruh Act

claim and the dismissal of that claim pursuant to 28 U.S.C. § 1367(c). Initials of Deputy Clerk: kd

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