

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Hoang Minh Le v. Jorge Gutierrez et al.

Le v. Gutierrez · No. 5:25-cv-00454 · Decided February 21, 2025

SUMMARY

The United States District Court for the Central District of California orders the parties to submit a joint status report addressing alleged ADA barriers, remedial measures, and potential summary judgment motions. The Court also orders the plaintiff to show cause why it should exercise supplemental jurisdiction over the Unruh Act and other state-law claims, identify the statutory damages sought, and provide declarations addressing whether the plaintiff and counsel qualify as high-frequency litigants.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Stephen V. Wilson
JURISDICTION	United States District Court for the Central District of California
DECIDED	February 21, 2025
DOCKET	5:25-cv-00454
DISPOSITION	other
PROCEDURAL POSTURE	The district court issued an order to show cause and directed the parties to file a joint status report concerning alleged ADA barriers, possible mootness, potential summary-judgment motions, and the exercise of supplemental jurisdiction over state-law claims.
PRECEDENTIAL VALUE	unpublished
PARTIES	Hoang Minh Le v. Jorge Gutierrez et al.

TOPICS

- ada / disability
- subject matter jurisdiction
- civil procedure
- attorney fees
- summary judgment

PRACTICE AREAS

- disability rights
- civil procedure
- supplemental jurisdiction
- attorney's fees

QUESTIONS PRESENTED

1. Whether the alleged ADA claims could become moot if the defendant voluntarily removes the alleged barriers and demonstrates that they are not reasonably expected to recur.
2. Whether the court should exercise supplemental jurisdiction over the plaintiff's Unruh Act and other state-law claims if the ADA claims become moot.
3. Whether the plaintiff and counsel must provide information concerning the statutory damages sought and their status under California's high-frequency-litigant provisions.

KEY QUOTATIONS

“a defendant’s voluntary removal of alleged barriers prior to trial can have the effect of mootng a plaintiff’s ADA claim.” (at 1)

“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.’” (at 2)

FACTUAL BACKGROUND

The complaint alleges ADA violations based on barriers that allegedly affect access to the defendant's facilities or services. The order indicates that the defendant may have investigated or remedied the alleged barriers and directs the defendant to describe any remedial measures. The plaintiff also asserted state-law claims, including an Unruh Act claim, and the court required information concerning the statutory damages sought and whether the plaintiff and counsel qualify as high-frequency litigants under California law.

PROCEDURAL HISTORY

The action alleges claims under the Americans with Disabilities Act and state law, including an Unruh Act claim. Before the initial status conference, the court ordered the parties to report on any investigation or remediation of the alleged barriers and ordered the plaintiff to show cause why the court should exercise supplemental jurisdiction over the state-law claims. No merits disposition was entered in this order.

DISPOSITION

other

CASES CITED

- *Oliver v. Ralphs Grocery Co.*, 654 F.3d 903, 905 (9th Cir. 2011)
- *Am. Cargo Transp., Inc. v. United States*, 625 F.3d 1176, 1179 (9th Cir. 2010)
- *Hillesheim v. Holiday Stationstores, Inc.*, 953 F.3d 1059, 1062 (8th Cir. 2020)
- *G. v. Fay Sch.*, 931 F.3d 1, 11 (1st Cir. 2019)
- *Brooke v. A-Ventures, LLC*, 2017 WL 5624941, at *5 (D. Ariz. Nov. 22, 2017)
- *Buckhannon Bd. & Care Home, Inc. v. W. Va. Dept. of Health & Human Resources*, 532 U.S. 598 (2001)

- *Molski v. Foster Freeze Paso Robles*, 267 Fed. Appx. 631, 632 (9th Cir. 2008)
- *City of Chicago v. Int'l Coll. of Surgeons*, 522 U.S. 156, 173 (1997)
- *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 (1988)

OPINION

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES - GENERAL Case No. [REDACTED] Date February 21, 2025 Title Hoang Minh Le v. Jorge Gutierrez et al Present: The Honorable STEPHEN V. WILSON, U.S. DISTRICT JUDGE Paul M. Cruz N/A Deputy Clerk Court Reporter / Recorder Attorneys Present for Plaintiffs: N/A Attorneys Present for Defendants: N/A Proceedings: ORDER TO SHOW CAUSE AND ORDER FOR JOINT STATUS REPORT It is the policy of this Court to encourage expedient resolution of civil litigation.

Cf Fed. R. Civ. P. 1 (noting that rules of civil procedure should be construed to “secure the just, speedy, and inexpensive determination of every action and proceeding”). In accordance with that policy, the Court reminds the parties that “a defendant’s voluntary removal of alleged barriers prior to trial can have the effect of moot[ing] a plaintiff’s ADA claim.” *Oliver v. Ralphs Grocery Co.*, 654 F.3d 903, 905 (9th Cir.

2011). If the defendant in an ADA case removes the alleged barriers and demonstrates that the alleged barriers could not reasonably be expected to arise again, the ADA claim may be dismissed. See *id.*; see also *Am. Cargo Transp., Inc. v. United States*, 625 F.3d 1176, 1179 (9th Cir. 2010). This is true even if a plaintiff pleads nominal damages, because nominal damages are not available under Title II of the ADA.

See *Hillesheim v. Holiday Stationstores, Inc.*, 953 F.3d 1059, 1062 (8th Cir. 2020); *G. v. Fay Sch.*, 931 F.3d 1, 11 (1st Cir. 2019); *Brooke v. A-Ventures, LLC*, 2017 WL 5624941, at *5 (D. Ariz. Nov. 22, 2017). If an ADA claim is mooted and dismissed at an early stage, the Court has the discretion to decline supplemental jurisdiction over state law claims. See *Oliver*, 654 F.3d at 911 (finding no abuse of discretion where district court declined supplemental jurisdiction after ADA claims were moot).

Additionally, if an ADA claim is mooted and dismissed, the plaintiff is not entitled to attorney’s fees. See *Buckhannon Bd. & Care Home, Inc. v. W. Va. Dept. of Health & Human Resources*, 532 U.S. 598 (2001) (affirming denial of attorney’s fees where ADA claim rendered moot prior to trial); see also Initials of Preparer PMC UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES - GENERAL Case No. [REDACTED] Date February 21, 2025 Title Hoang Minh Le v. Jorge Gutierrez et al *Molski v. Foster Freeze Paso Robles*, 267 Fed.

Appx. 631, 632 (9th Cir. 2008) (citing *Buckhannon*, 532 at 605) (affirming district court's order dismissing ADA claims as moot, dismissing supplemental state claims, and denying attorney's fees). In light of the foregoing, the parties are ORDERED to issue a joint status report at least 7 days prior to the initial status conference.

In that status report, Defendant should describe the measures it has taken to investigate and/or remedy the alleged barriers. If Defendant implemented remedial measures, Plaintiff should state their position regarding those measures. Both parties should state whether and when they intend to move for summary judgment. Further, it appears that Plaintiff has invoked the Court's supplemental jurisdiction to assert state law claims.

See 28 U.S.C. § 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 (1997) (emphasis added) (quoting *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 (1988)).

The Court therefore further ORDERS Plaintiff to show cause in writing why the Court should exercise supplemental jurisdiction over the Unruh Act claim and any other state law claim asserted in the Complaint. 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 Plaintiff's 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 within 14 days of this order. Failure to timely or adequately respond to this Order to Show Cause may, without further warning, result in the dismissal of the entire action without prejudice or the Court declining to exercise supplemental jurisdiction over the state law claims and the dismissal of any such claims pursuant to 28 U.S.C. § 1367(c).

IT IS SO ORDERED. Initials of Preparer PMC