

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Whitfield v. Saleh

No. 1:22-cv-00141-KES-CDB (E.D. Cal. July 10, 2025) · No. 1:22-cv-00141-KES-CDB · Decided July 11,
2025

SUMMARY

The document contains findings and recommendations by a United States magistrate judge in the Eastern District of California recommending dismissal with prejudice of Steven Whitfield’s action against Khalib Saleh and others. The recommendation is based on failure to state a cognizable ADA and related state-law claim, failure to obey a court order, and failure to prosecute after Plaintiff failed to file an amended complaint. The document provides a 14-day period for objections.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	July 11, 2025
DOCKET	1:22-cv-00141-KES-CDB
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal of a pro se in forma pauperis action after the plaintiff failed to file an amended complaint ordered by the court.
STANDARD OF REVIEW	On screening an in forma pauperis complaint, the court must dismiss an action that is frivolous, malicious, fails to state a claim, or seeks monetary relief from an immune defendant. A dismissal for failure to prosecute or obey court orders requires consideration of the five Carey factors: expeditious resolution, docket management, prejudice, disposition on the merits, and availability of less drastic sanctions. Supplemental-jurisdiction decisions under 28 U.S.C. § 1367(c)(4) are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	unpublished
PARTIES	Steven Whitfield v. Khalib Saleh, Kimberly Long, Darrell Long, other named and unidentified defendants

TOPICS

ada standing public accommodations discrimination pleadings motions to dismiss civil procedure

PRACTICE AREAS

civil procedure civil rights Americans with Disabilities Act torts

QUESTIONS PRESENTED

1. Whether the complaint adequately pleaded injury-in-fact and standing for a Title III ADA claim based on alleged inaccessible parking, restrooms, sinks, and other barriers.
2. Whether the court should exercise supplemental jurisdiction over the Unruh Act, California Disabled Persons Act, and related state-law claims under 28 U.S.C. § 1367(c)(4).
3. Whether dismissal was warranted because Whitfield failed to file an amended complaint after being granted leave and warned that noncompliance could result in dismissal.

HOLDINGS

1. The complaint failed to adequately plead an injury-in-fact or establish standing for the Title III ADA claims because it did not show that Whitfield personally encountered or was deterred by the alleged accessibility barriers.
2. The court should decline supplemental jurisdiction over the Unruh Act, California Disabled Persons Act, and related state-law claims under 28 U.S.C. § 1367(c)(4).
3. Dismissal was warranted because Whitfield failed to file the amended complaint ordered by the court after receiving a clear warning that noncompliance could result in dismissal.

KEY QUOTATIONS

“To prevail on a Title III discrimination claim, the plaintiff must show that (1) she is disabled within the meaning of the ADA; (2) the defendant is a private entity that owns, leases, or operates a place of public accommodation; and (3) the plaintiff was denied public accommodations by the defendant because of her disability.” (at 3)

“A plaintiff suffers an “actual and imminent” injury under the ADA when he alleges “(1) that he visited an accommodation in the past; (2) that he was currently deterred from returning to the accommodation because of ADA violations; and (3) that he would return if the ADA violations were remedied.”” (at 5)

“The Court DISMISS this action with prejudice for Plaintiff’s failure to state a claim upon which relief may be granted and futility of further amendment, or in the alternative, without prejudice for his failure to prosecute this action and to comply with the Court’s orders and Local Rules.” (at 16)

FACTUAL BACKGROUND

Whitfield alleged that he has mobility-related disabilities and uses a four-wheeled walker. He claimed that CaliMex Supermarket had inaccessible restrooms, inadequate or nonexistent accessible parking, inaccessible sinks, and other architectural barriers. He alleged visiting the store at least four times before a February 5, 2021

automobile accident, but the complaint indicated that his passenger entered the store and completed the shopping. Whitfield did not allege that he personally attempted to use the restrooms, encountered a specific parking barrier, or was deterred from returning because of the alleged barriers.

PROCEDURAL HISTORY

Whitfield filed the action on February 2, 2022, asserting Title III ADA, Unruh Act, California Disabled Persons Act, and related tort claims. After service, defendants moved to dismiss, and Whitfield moved for leave to amend. The court granted leave to amend and screened the complaint, finding that he had not adequately pleaded ADA standing or explained why supplemental jurisdiction should be exercised over his state-law claims. Whitfield did not file an amended complaint within the ordered period despite a warning that dismissal could result. The magistrate judge recommended dismissal with prejudice for failure to state a claim and futility of amendment, or alternatively without prejudice for failure to prosecute and obey court orders.

DISPOSITION

other

REMAND INSTRUCTIONS

The magistrate judge recommended that the district judge dismiss the action with prejudice for failure to state a claim and futility of further amendment, or alternatively dismiss it without prejudice for failure to prosecute and obey court orders and Local Rules. The Clerk was recommended to close the case. The recommendation was subject to a 14-day objection period and review by the assigned district judge.

CASES CITED

- *Lopez v. Smith*, 203 F.3d 1122, 1126-29 (9th Cir. 2000) (en banc)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
- *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)
- *Balisteri v. Pacifica Police Department*, 901 F.2d 696 (9th Cir. 1990)
- *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972)
- *Neitzke v. Williams*, 490 U.S. 319, 330 n.9 (1989)
- *Bruns v. National Credit Union Administration*, 122 F.3d 1251, 1257 (9th Cir. 1997)
- *Doe I v. Wal-Mart Stores, Inc.*, 572 F.3d 677, 681 (9th Cir. 2009)
- *PGA Tour, Inc. v. Martin*, 532 U.S. 661, 677 (2001)
- *Oliver v. Ralphs Grocery Co.*, 654 F.3d 903, 905 (9th Cir. 2011)
- *Molski v. M.J. Cable, Inc.*, 481 F.3d 724, 730-31 (9th Cir. 2007)
- *Lentini v. California Center for the Arts, Escondido*, 370 F.3d 837, 846 (9th Cir. 2004)
- *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560, 570 n.4 (1992)
- *Friends of the Earth, Inc. v. Laidlaw Environmental Services, Inc.*, 528 U.S. 167, 214 (2000)
- *Langer v. Kiser*, 57 F.4th 1085, 1098 (9th Cir. 2023)

- Skaff v. Meridien North America Beverly Hills, LLC, 506 F.3d 832, 850 (9th Cir. 2007)
- Daubert v. Lindsay Unified School District, 760 F.3d 982, 984 (9th Cir. 2014)
- Sacco v. Mouseflow, Inc., No. 2:20-cv-02330-TLN-KJN, 2022 WL 4663361, at *2 (E.D. Cal. Sept. 30, 2022)
- Arafles v. Safeway, Inc., No. 2:24-cv-02801-TLN-SCR, 2025 WL 457834, at *2 (E.D. Cal. Jan. 27, 2025)
- Williams v. Amazone.com Inc., No. 2:20-cv-513-JDP PS, 2020 WL 5909060, at *1 (E.D. Cal. Oct. 6, 2020)
- Arroyo v. Rosas, 19 F.4th 1202, 1205, 1209-14 (9th Cir. 2021)
- United Mine Workers of America v. Gibbs, 383 U.S. 715 (1966)
- Vo v. Choi, 49 F.4th 1167, 1168-74 (9th Cir. 2022)
- Block v. Arsh & Jot LLC, No. 1:24-cv-0812 JLT SAB, 2024 WL 5195915, at *5 (E.D. Cal. Dec. 23, 2024)
- Orosco v. Monrroy Enterprises LLC, No. 2:23-cv-07818-MEMF (KSx), 2023 WL 10407115, at *5 (C.D. Cal. Nov. 30, 2023)
- Kim v. Vegara, No. EDCV 22-281 JGB (SHKx), 2022 WL 17080182, at *5 (C.D. Cal. Oct. 5, 2022)
- Benford v. Hall, No. CV 22-03337-RSWL-ASx, 2022 WL 20273588, at *3 & n.3 (C.D. Cal. July 18, 2022)
- Hartmann v. California Department of Corrections & Rehabilitation, 707 F.3d 1114, 1129-30 (9th Cir. 2013)
- Bautista v. Los Angeles County, 216 F.3d 837, 841 (9th Cir. 2000)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1260-62 (9th Cir. 1992)
- Malone v. United States Postal Service, 833 F.2d 128, 130-31 (9th Cir. 1987)
- Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986)
- Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
- Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976)
- Pagtalunan v. Galaza, 291 F.3d 639, 643 (9th Cir. 2002)
- In re Phenylpropanolamine (PPA) Products Liability Litigation, 460 F.3d 1217, 1228 (9th Cir. 2006)
- Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014)

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