

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WASHINGTON

Johnny McMurry, Jr. v. Neiders Company LLC

McMurry · No. 2:25-cv-00824-JNW · Decided February 3, 2026

SUMMARY

The United States District Court for the Western District of Washington resolves the parties' remaining motions in Johnny McMurry Jr.'s employment discrimination action against Neiders Company LLC. The court denies or strikes the pending motions, declines to impose sanctions without prejudice, and orders the parties to submit a joint status report concerning scheduling; only McMurry's retaliation claims remain.

OPINION

1 2 3 4 5 UNITED STATES DISTRICT COURT 6 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE 7 JOHNNY MCMURRY, JR., CASE NO. 2:25-cv-00824-JNW 8 Plaintiff, ORDER
9 v. 10 NEIDERS COMPANY LLC, 11 Defendant. 12 13 1. INTRODUCTION 14 Plaintiff
Johnny McMurry, proceeding pro se, sues his former employer, 15 Neiders Company LLC, for
employment discrimination.

On October 31, 2025, 16 Neiders moved to dismiss McMurry's fifth amended complaint. Dkt. No.
45. While 17 that motion was pending, the parties filed numerous additional motions. The Court
18 has now granted in part and denied in part Neiders's motion to dismiss, allowing 19 only
McMurry's retaliation claims to proceed. Dkt. No. 87.

The Court now addresses 20 the remaining pending motions. For the reasons stated below, all are
DENIED. 21 22 23 1 2. BACKGROUND 2 Since the filing of the motion to dismiss, McMurry
has filed the following 3 motions: (1) a motion for discovery, Dkt. No. 47; (2) a motion for leave
to file 4 supplement for related case, Dkt. No. 51; (3) a motion to compel, Dkt.

No. 53; (4) a 5 motion to strike boilerplate discovery objections, Dkt. No. 54; (5) a motion to
compel, 6 Dkt. No. 55; (6) a second motion for judicial notice, Dkt. No. 56; (7) a motion to 7
consolidate cases, Dkt. No. 58; (8) a motion for leave to file, Dkt. No. 59; (9) a motion 8 to
expedite, Dkt. No. 60; (10) a motion to expedite, Dkt. No. 61; (11) a renewed 9 motion for
appointment of pro bono counsel, Dkt.

No. 84. 10 Neiders has filed a motion for reconsideration, Dkt. No. 77, and a motion to 11 stay,
Dkt. No. 78. 12 3. DISCUSSION 13 3.1 McMurry's motion for discovery, Dkt. No. 47. McMurry
filed his discovery requests on the Court's docket.

Under Local Civil 14 Rule 5(d) and Fed. R. Civ. P. 26, discovery requests must not be filed on the docket 15 unless they are used in the proceedings or the court orders filing. Judge 16 Coughenour issued a prior order to the same effect addressing a similar discovery 17 request filed by McMurry, Dkt. Nos. 34, 35. McMurry is again reminded that he 18 must not file discovery requests on the docket.

The motion is DENIED. 19 20 3.2 McMurry's motions to compel, Dkt. Nos. 53, 55. 21 These two motions appear to be identical, so the Court treats them as one. 22 The motions fail for at least three reasons. First, McMurry agreed in writing to 23 1 pause discovery.

On November 7, 2025, he responded "Yes, I agree" to Neiders's 2 email confirming that "both parties have agreed to postpone all discovery responses 3 and conferral on discovery until after the Court issues its order." Dkt. No. 65-1 at 4 86. He reiterated this agreement in a follow-up email. Id. at 93.

Having agreed to 5 pause discovery, McMurry cannot now claim that Neiders improperly refused to 6 confer. 7 Second, a motion to compel requires certification that the movant "in good 8 faith conferred or attempted to confer" with the opposing party. Fed. R. Civ. P. 9 37(a)(1); LCR 37(a)(1). McMurry's motions contain no such certification. This defect 10 alone warrants denial.

See *Veniale v. Steiner*, No. 2:24-CV-1623-JHC-DWC, 2025 11 WL 660674, at *1 (W.D. Wash. Feb. 28, 2025). 12 Third, McMurry served 80 interrogatories and 70 requests for production. 13 Federal Rule of Civil Procedure 33(a)(1) limits interrogatories to 25 "unless 14 otherwise stipulated or ordered by the court." Plaintiff obtained neither stipulation 15 nor leave.

The motions are DENIED. 16 3.3 McMurry's motions to expedite, Dkt. Nos. 60, 61. 17 Dkt. No. 60 is captioned as a "[PROPOSED] Order Granting Plaintiff's 18 Motion for Unified Discovery and Case Management." No such motion exists on the 19 docket.

Accordingly, the Court STRIKES Dkt. No. 60. 20 For McMurry's motion to expedite discovery, Dkt. No. 61, he seeks "expedited 21 discovery directly responsive to the evidentiary issues Defendants placed at the 22 heart of their Motion to Dismiss Plaintiff's Fifth Amended Complaint." Dkt. No. 61 23 1 at 2. Expedited discovery requires the movant to show "good cause" to deviate from 2 the standard pre-trial schedule.

Music Grp. Macao Com. Offshore Ltd. v. John Does 3 I-IX, No. 14-CV-621 RSM, 2014 WL 11010724 *1 (W.D. Wash. July 18, 2014). The 4 discovery that McMurry seeks to expedite includes "emails, training manuals, HR 5 files, performance metrics, comparator data, and termination materials." Dkt. No. 6 61. He does not show good cause for expedited discovery of these documents, as "[a] 7 pending motion to dismiss is not dispositive to a finding of good cause for expedited 8 discovery." *Gois v. Kisco Senior Living, LLC*, No. 3:24-CV-00751-BJC-AHG, 2025 9 WL 3172890 * 1 (S.D.

Cal. Nov. 13, 2025). In any event, the motion to dismiss has now been resolved. The motion is DENIED. 11 3.4 McMurry's motions for judicial notice, Dkt. Nos. 50, 56. 12 McMurry asks the Court to take judicial notice of three cases in state court. 13 Dkt. No. 50. He also asks for judicial notice of documents that he seeks to obtain 14 through discovery, Dkt.

No. 56. The motions fail to comply with Fed. R. Evid. 201(a) 15 and (b). McMurry does not attach the documents to his motions, he does not explain 16 how these documents are relevant to his claims or what particular facts are the 17 subject of his request for judicial notice—that is, what facts he is arguing are not 18 subject to reasonable dispute. Additionally, McMurry cannot use a motion for 19 judicial notice to seek discovery.

The motions are DENIED. 20 3.5 McMurry's request to consolidate cases, Dkt. No. 58 21 McMurry moves to consolidate two cases: "McMurry v. Neiders Company, 22 2:25-cv-00824-JCC [and] McMurry v. Thrive Communities, 2:25-cv-00817-JNW." 23 1 Dkt. No. 58 at 2. Federal Rule of Civil Procedure 42(a) permits consolidation of 2 actions "involve[ing] a common question of law or fact[.]" Local Civil Rule 42(b) 3 requires that parties confer before filing such a motion.

Plaintiff did not confer. The 4 motion fails on this basis alone. The motion is DENIED. 5 3.6 McMurry's motions for leave to supplement, Dkt. Nos. 51, 59. 6 McMurry moves for leave to supplement his fifth amended complaint, Dkt. 7 No. 59, to add new factual allegations about actions taken by Neiders after his 8 firing and about his eviction from housing owned by Thrive Communities and his 9 resulting homelessness.

Federal Rule of Civil Procedure 15(d) permits supplemental 10 pleadings "setting out any transaction, occurrence, or event that happened after the 11 date of the pleading to be supplemented." But it does not permit a plaintiff to add 12 claims against non-parties.

Because the proposed supplement concerns Thrive's 13 conduct, not Neiders's, the motions are DENIED. 14 3.7 McMurry's renewed motion for appointment of pro bono counsel, 15 Dkt. No. 84. 16 The Court previously denied McMurry's request for counsel, and the 17 circumstances have not materially changed. McMurry's renewed request is 18 DENIED. 19 3.8 Neiders's motions are denied.

20 Neiders's motion to stay all proceedings until after resolution of its motion to 21 dismiss is DENIED as moot. Dkt. No. 78. The Court has now resolved the motion, so 22 a stay is unnecessary. 23 1 Neiders also moves for reconsideration of District Judge John C. 2 Coughenour's December 10, 2025, Order reassigning this case to this Court, as 3 related to McMurry v. Thrive Communities LLC, et al., 25-CV-0817 ("Thrive Case").

4 Under Local Civil Rule 7(h)(1), reconsideration requires "a showing of manifest 5 error" or "new facts or legal authority which could not have been brought to [the 6 Court's] attention earlier

with reasonable diligence.” 7 Neiders main argument is that it was not given a chance to respond to 8 McMurry’s notice of related case before reassignment. No. 77 at 4.

But case 9 assignment is not an adversarial proceeding and district judges have “broad 10 discretion” over case assignments. *United States v. Gray*, 876 F.2d 1411, 1414 (9th Cir. 1989). Nothing in the Local Rules or elsewhere entitles a party to brief the 12 question before the Court acts. 13 To the extent Defendant disputes whether these cases are “related” within 14 the meaning of LCR 3(g), that dispute does not establish manifest error in a 15 discretionary case-management decision.

The motion is DENIED. Dkt. No. 77. 16 3.9 The Court will not impose sanctions. 17 Neiders moves for sanctions against McMurry for his failure to comply with 18 the Local Rules and for making material misrepresentations. LCR 11(c). See Dkt. 19 Nos. 64, 66, 72. 20 Federal courts possess inherent power to impose sanctions “to manage their 21 own affairs so as to achieve the orderly and expeditious disposition of cases.” 22 *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991).

Rule 11 authorizes sanctions 23 1 when a filing is presented “for any improper purpose” or when claims are not 2 “warranted by existing law.” Fed. R. Civ. P. 11(b). Courts may also impose pre-filing 3 orders against litigants with lengthy histories of abusive litigation. See *Molski v. 4 Evergreen Dynasty Corp.*, 500 F.3d 1047, 1057 (9th Cir. 2007). 5 At this juncture, the Court declines to impose sanctions.

Plaintiff proceeds 6 pro se, and the Court affords him some latitude. But latitude has limits. The Court 7 has now denied all of Plaintiff’s pending motions. Several were duplicative. Several 8 failed basic procedural requirements. And the Court previously admonished 9 Plaintiff for citing a non-existent case, warning that “he is responsible for the 10 accuracy of all submissions and may be subject to sanctions if he repeats this 11 transgression.” Dkt.

No. 24. at 5 n.4. 12 The Court reminds McMurry that “pro se litigant[s] must follow the same 13 rules of procedure that govern other litigants,” including the Federal Rules of Civil 14 Procedure and the Western District of Washington’s Local Civil Rules. See *Briones 15 v. Riviera Hotel & Casino*, 116 F.3d 379, 381 (9th Cir. 1997). Continued procedural 16 violations may result in sanctions.

17 3.10 Case scheduling. 18 With the motion to dismiss resolved and all pending motions now addressed, 19 this case will proceed on the surviving retaliation claim. The parties must submit a 20 joint status report within FOURTEEN (14) days of this order.

The joint status 21 report must include: (1) a proposed trial date; (2) a proposed discovery cutoff; (3) a 22 proposed deadline for dispositive motions; and (4) any other scheduling matters the 23 1 parties wish to bring to the Court’s attention.

The Court will issue a scheduling 2 order after reviewing the parties' joint status report. 3 4. CONCLUSION 4 Accordingly, the Court ORDERS: 5 1. Motion for discovery, Dkt. No. 47, is DENIED. 6 2. Motion for leave to file supplement for related case, Dkt. No. 51, is 7 DENIED. 8 3. Motion to compel, Dkt. No. 53, is DENIED. 9 4. Motion to strike boilerplate discovery objections, Dkt.

No. 54, is DENIED. 10 5. Motion to compel, Dkt. No. 55, is DENIED. 11 6. Second motion for judicial notice, Dkt. No. 56, is DENIED. 12 7. Motion to consolidate cases, Dkt. No. 58, is DENIED. 13 8. Motion for leave to file, Dkt. No. 59, is DENIED. 14 9. Motion to expedite, Dkt. No. 60 is STRICKEN. 15 10. Motion to expedite, Dkt. No. 61, is DENIED. 16 11. Motion for reconsideration, Dkt.

No. 77, is DENIED. 17 12. Motion to stay, Dkt. No. 78, is DENIED AS MOOT. 18 13. Renewed motion for appointment of pro bono counsel. Dkt. No. 84, is 19 DENIED. 20 14. Defendant's request for sanctions are DENIED WITHOUT PREJUDICE. 21 15.

The parties must file a JOINT STATUS REPORT within FOURTEEN 22 (14) days of this order, as described above. 23 1 Dated this 3rd day of February, 2026. 3 amal N. Whitehead United States District Judge 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23