

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Nancy S. Berent v. City of Surprise, et al.

Nancy S. Berent v. City of Surprise, No. CV-25-02870-PHX-MTL (D. Ariz. Apr. 14, 2026) · No. CV-25-02870-PHX-MTL · Decided April 14, 2026

SUMMARY

The United States District Court for the District of Arizona denied Nancy S. Berent’s motion for reconsideration of the dismissal of her original complaint. The court screened her amended complaint under 28 U.S.C. § 1915(e)(2), dismissed newly added claims and defendants outside the scope of leave to amend, and found that the remaining civil rights, ADA, and fraud-on-the-court claims were not cognizable or adequately pleaded. The court also denied her motion for a temporary restraining order and preliminary injunction, dismissed the amended complaint without prejudice, and closed the case.

CASE DETAILS

COURT	United States District Court for the District of Arizona
WRITING FOR THE COURT	Michael T. Liburdi
JURISDICTION	United States District Court for the District of Arizona
DECIDED	April 14, 2026
DOCKET	CV-25-02870-PHX-MTL
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff moved for reconsideration of the prior dismissal of her original complaint, filed an amended complaint after receiving leave to amend, and sought a temporary restraining order and preliminary injunction. The district court denied reconsideration, screened and dismissed the amended complaint without prejudice under 28 U.S.C. § 1915(e)(2), and denied preliminary injunctive relief.
STANDARD OF REVIEW	A motion for reconsideration requires a showing of manifest error or newly discovered facts or legal authority that could not previously have been presented with reasonable diligence. On screening under 28 U.S.C. § 1915(e)(2), the court must dismiss claims that are frivolous, malicious, fail to state a claim, or seek monetary relief from an immune defendant. A preliminary injunction or temporary restraining order requires a likelihood of success on the merits, among other Winter factors.

PRECEDENTIAL VALUE	unpublished district court order; persuasive but not controlling precedent
PARTIES	Nancy S. Berent v. City of Surprise, et al.

TOPICS

[motion for reconsideration](#)
[injunctions](#)
[pleadings](#)
[section 1983](#)
[ada / disability](#)

PRACTICE AREAS

[civil procedure](#)
[civil rights](#)
[constitutional law](#)
[municipal law](#)
[remedies](#)
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QUESTIONS PRESENTED

1. Whether Plaintiff's motion for reconsideration should be granted based on alleged newly discovered facts, manifest errors of law, or extraordinary circumstances.
2. Whether Plaintiff's amended complaint could add claims and defendants beyond the scope of the court's prior leave to amend.
3. Whether the remaining civil-rights claims stated cognizable claims under 42 U.S.C. §§ 1983 and 1985.
4. Whether Plaintiff stated claims for violations of equal protection, substantive due process, Title II of the Americans with Disabilities Act, or fraud upon the court.
5. Whether Plaintiff was entitled to a temporary restraining order or preliminary injunction.

HOLDINGS

1. The motion for reconsideration was denied because it was untimely and, even when considered on the merits, Plaintiff did not show newly discovered facts unavailable through reasonable diligence, manifest error, or other grounds warranting reconsideration.
2. Plaintiff could not use the amended complaint to add new causes of action or defendants beyond the limited leave granted to cure deficiencies in the original complaint.
3. The amended complaint failed to state a class-of-one equal protection claim because it did not adequately allege that Plaintiff and the alleged comparators were similarly situated or subject to the same ordinance and conduct.
4. The amended complaint failed to state a substantive due process claim based on zoning disputes, alleged property encroachments, nonenforcement of ordinances, or alleged fire-related danger.
5. Plaintiff failed to state a Title II ADA claim because she did not allege that the challenged governmental conduct occurred by reason of her disability.
6. Plaintiff failed to state a cognizable independent claim for fraud upon the court because she did not seek relief from a court order or judgment allegedly induced by fraud.
7. The motion for a temporary restraining order and preliminary injunction was denied because Plaintiff failed to show a likelihood of success on the merits.

KEY QUOTATIONS

“Motions for reconsideration are denied “absent a showing of manifest error or a showing of new facts or legal authority that could not have been brought to its attention earlier with reasonable diligence.”” (at 1)

“A pleading must contain a “short and plain statement of the claim showing that the pleader is entitled to relief.”” (at 8)

“While Rule 8 does not demand detailed factual allegations, “it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.”” (at 8)

“Because the Court has already afforded Plaintiff an opportunity to cure the defects in her complaint, and Plaintiff does not request leave to amend her complaint again, the Court will dismiss Plaintiff’s Amended Complaint (Doc. 41) without prejudice.” (at 13)

FACTUAL BACKGROUND

Plaintiff's claims arose from alleged selective enforcement of municipal ordinances, disputes involving neighboring property, a driveway extension, a fire-hydrant obstruction, zoning and code-enforcement matters, and alleged governmental failures to protect or assist her. Her original complaint was dismissed for failure to provide fair notice and sufficiently specific allegations against the defendants. In the amended complaint, Plaintiff asserted thirty-one claims against thirty-one defendants, including civil-rights, ADA, and fraud-on-the-court claims, while adding claims and defendants beyond the scope of the court's limited leave to amend.

PROCEDURAL HISTORY

The court dismissed Plaintiff's original complaint under 28 U.S.C. § 1915(e)(2) and granted limited leave to amend to cure identified deficiencies. Plaintiff then moved for reconsideration, filed an amended complaint adding twenty-four defendants and fourteen claims, and sought emergency injunctive relief. The court denied reconsideration, dismissed claims and defendants that exceeded the scope of the leave to amend, concluded that the remaining claims failed to satisfy Rule 8 and applicable substantive standards, denied the temporary restraining order and preliminary injunction, and closed the case.

DISPOSITION

dismissed

CASES CITED

- Lerner & Rowe PC v. Brown Engstrand & Shelly LLC, 684 F. Supp. 3d 953, 955 (D. Ariz. 2023)
- Kona Enters., Inc. v. Est. of Bishop, 229 F.3d 877, 890 (9th Cir. 2000)
- Wyle Prof'l Corp. v. Texaco, Inc., 764 F.2d 604, 609 (9th Cir. 1985)
- Hess v. Centurion Healthcare, No. CV-22-01864-PHX-SPL, 2024 WL 4329673, at *2 (D. Ariz. Sept. 12, 2024)
- Riehle v. Bank of Am., N.A., No. CV-12-0051-PHX-NVW, 2013 WL 1694442, at *2 (D. Ariz. Apr. 18, 2013)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-81 (2009)

- *Erickson v. Pardus*, 551 U.S. 89, 94 (2007)
- *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010)
- *Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (en banc)
- *Cuaglott v. City of Mesa*, No. CV-24-02970-PHX-SHD, 2025 WL 1918541, at *3 (D. Ariz. July 11, 2025)
- *Lacey v. Maricopa Cty.*, 693 F.3d 896, 935 (9th Cir. 2012)
- *Dunbar v. City of Riverside*, No. EDCV 13-847-JGB (SPx)
- *Great Am. Fed. Sav. & Loan Ass’n v. Novotny*, 442 U.S. 366, 372 (1979)
- *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000)
- *Barroca v. Hayward Area Recreation and Parks District*, No. 25-cv-00440-EMC, 2026 WL 497399, at *7 (Feb. 23, 2026)
- *Nordlinger v. Hahn*, 505 U.S. 1, 10 (1992)
- *Arroyo Vista Partners v. Cty. of Santa Barbara*, 732 F. Supp. 1046, 1053 (C.D. Cal. 1990)
- *Sinaloa Lake Owners Ass’n v. City of Simi Valley*, 882 F.2d 1398, 1405 (9th Cir. 1989)
- *Doody v. Sinaloa Lake Owners Ass’n, Inc.*, 494 U.S. 1016 (1990)
- *Ruckelhaus v. Monsanto Co.*, 467 U.S. 986, 1001 (1984)
- *Fidelity Nat. Title Ins. Co. v. Pima Cty.*, 171 Ariz. 427, 429 (App. 1992)
- *DeShaney v. Winnebago Cnty. Dep’t of Soc. Servs.*, 489 U.S. 189, 195 (1989)
- *Martinez v. City of Clovis*, 943 F.3d 1260, 1271 (9th Cir. 2019)
- *Lovell v. Chandler*, 303 F.3d 1039, 1052 (9th Cir. 2002)
- *In re Intermagnetics America, Inc.*, 926 F.2d 912, 916-17 (9th Cir. 1991)
- *Coultas v. Payne*, No. 3:11-cv-00045-AC, 2016 WL 740421, at *4 (D. Or. Feb. 24, 2016)
- *Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1141 (9th Cir. 2004)
- *Edwards v. Edwards*, CV 23-00552, 2023 WL 3010158, at *4 (C.D. Cal. Apr. 19, 2023)
- *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 21 (2008)
- *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001)