

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Gabriel Adam Royall v. The Sherwin-Williams Company

Royall · No. 3:25-cv-2455-RSH-DEB · Decided November 3, 2025

SUMMARY

The United States District Court for the Southern District of California granted The Sherwin-Williams Company's motion to dismiss Gabriel Adam Royall's pro se abuse-of-process claim. The court held that the complaint did not plausibly allege improper use of judicial process and dismissed the action without leave to amend, ordering the case closed.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Robert S. Huie
JURISDICTION	United States District Court for the Southern District of California
DECIDED	November 3, 2025
DOCKET	3:25-cv-2455-RSH-DEB
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed a pro se abuse-of-process/procedural-interference action in California state court. Defendant removed the action to federal court on diversity grounds and moved to dismiss under Federal Rule of Civil Procedure 12(b)(6). The district court granted the motion and dismissed the complaint without leave to amend.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court tests the sufficiency of the complaint, accepts material factual allegations and reasonable inferences as true, disregards conclusory allegations that do not follow from the pleaded facts, and asks whether the complaint states a claim that is plausible on its face. Pro se pleadings are construed liberally but must still provide adequate notice and cannot be supplemented by the court with essential elements not pleaded.
PRECEDENTIAL VALUE	unpublished district court order; precedential status unknown

TOPICS

- motions to dismiss
- civil procedure
- subject matter jurisdiction
- abuse of process
- torts

PRACTICE AREAS

civil procedure

torts

QUESTIONS PRESENTED

1. Whether the complaint plausibly stated a California claim for abuse of process based on Defendant's removal of Plaintiff's prior lawsuits to federal court.
2. Whether the complaint's deficiencies could be cured by amendment.
3. Whether Defendant's removals were improper or otherwise supported the asserted abuse-of-process claim.

HOLDINGS

1. The complaint failed to state a plausible abuse-of-process claim because it did not identify an improper use of court process or an unjustifiable collateral advantage; the removals described in the complaint were properly based on federal subject matter jurisdiction.
2. Dismissal without leave to amend was proper because it was absolutely clear that the complaint's deficiencies could not be cured by amendment.
3. A complaint must contain sufficient factual matter to provide fair notice of the claims and grounds for relief and to state a claim that is plausible on its face.

KEY QUOTATIONS

“The tort of abuse of process arises when one uses the court’s process for a purpose other than that for which the process was designed.” (at 3)

“A showing of malice, whether express or implied, is required.” (at 3)

“The gist of the tort is the misuse of the power of the court: It is an act done under the authority of the court for the purpose of perpetrating an injustice, i.e., a perversion of the judicial process to the accomplishment of an improper purpose.” (at 3)

“The Court concludes that the deficiencies identified herein cannot be cured by amendment.” (at 4)

FACTUAL BACKGROUND

Plaintiff alleged that The Sherwin-Williams Company improperly moved or removed an earlier complaint to another court or venue, creating procedural confusion, cognitive burden, delay, and emotional stress. He characterized the conduct as abuse of process or procedural interference and sought \$250,000 in damages. The court took judicial notice that Plaintiff had filed five substantially related lawsuits against Defendant within approximately two months, each apparently concerning the same dispute and each removed to federal court on diversity grounds; the other four had been dismissed.

PROCEDURAL HISTORY

Plaintiff filed the action in the Superior Court for the County of San Diego on August 21, 2025. Defendant removed it on September 18, 2025, asserting diversity jurisdiction, and moved to dismiss on September 24, 2025. Plaintiff did not timely oppose the motion. After transfer to Judge Huie, the court granted dismissal without leave to amend and directed the clerk to close the case.

DISPOSITION

dismissed

CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 556, 570 (2007)
- Cahill v. Liberty Mut. Ins. Co., 80 F.3d 336, 338 (9th Cir. 1996)
- Holden v. Hagopian, 978 F.2d 1115, 1121 (9th Cir. 1992)
- Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010)
- Ivey v. Bd. of Regents, 673 F.2d 266, 268 (9th Cir. 1982)
- Brazil v. U.S. Dep’t of Navy, 66 F.3d 193, 199 (9th Cir. 1995)
- Brown v. Kennard, 94 Cal. App. 4th 40, 44 (Ct. App. 2001)
- Slaughter v. Legal Process & Courier Serv., 162 Cal. App. 3d 1236, 1247 (Ct. App. 1984)
- Younger v. Solomon, 38 Cal. App. 3d 289, 297 (Ct. App. 1974)
- Rosati v. Igbinoso, 791 F.3d 1037, 1039 (9th Cir. 2015)

OPINION

Royall

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 GABRIEL ADAM ROYALL, Case No.: 3:25-cv-2455-RSH-DEB 12 Plaintiff,

ORDER GRANTING MOTION TO

13 v. DISMISS

14 THE SHERWIN-WILLIAMS

[ECF Nos. 4, 9]

COMPANY,

15 Defendant. 16

17 18 Pending before the Court is a motion to dismiss filed by defendant The Sherwin- 19
Williams Co. (“Sherwin-Williams” or “Defendant”). ECF No. 4. Plaintiff Gabriell Adam 20
Royall (“Royall” or “Plaintiff”) did not timely file an opposition. See Docket. As set forth 21
below, the Court grants the motion.

22 I. BACKGROUND

23 On August 21, 2025, Plaintiff filed this lawsuit pro se in California Superior Court 24 for the County of San Diego. ECF No. 1-3 at 13–18 (“Compl.”). The Complaint asserts 25 one claim, for “abuse of process/procedural interference,” and alleges that Defendant 26 undertook to “displace” a complaint that Plaintiff had filed “to another court or venue.” Id. 27 ¶ 4. Plaintiff alleges that this change of courts or venue “created procedural ambiguity and 28 cognitive load, forcing Plaintiff to expend significant energy to research, reorganize, and 1 mentally re-process the dispute from a new and uncertain posture.” Id. ¶ 6. Plaintiff further 2 alleges that Defendants did this “not to resolve a dispute on the merits, but to burden, orient, 3 and delay Plaintiff’s pursuit of justice.” Id. ¶ 19. 4 Plaintiff alleges that the foregoing has “disrupted daily life” and “imposed emotional 5 stress.” Id. ¶ 8. Plaintiff seeks damages in the amount of \$250,000. Id. ¶ 26. 6 On September 18, 2025, Defendant removed the action to this Court based on 7 diversity of citizenship. ECF No. 1. 8 On September 24, 2025, Defendant filed a motion to dismiss. ECF No. 4. Plaintiff 9 has not timely filed an opposition. 10 On September 29, 2025, the case was transferred to the undersigned. ECF No. 6.

11 II. LEGAL STANDARD

12 A motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) tests the 13 sufficiency of the complaint. See *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Rule 12(b)(6) 14 is read in conjunction with Federal Rule of Civil Procedure 8(a), which requires only “a 15 short and plain statement of the claim showing that pleader is entitled to relief[.]” Fed. R. 16 Civ. P. 8(a)(2). While Rule 8 does not require detailed factual allegations, at a minimum, 17 a complaint must allege enough facts to provide “fair notice” of both the particular claims 18 being asserted and “the grounds upon which [those claims] rests.” *Bell Atlantic Corp. v. 19 Twombly*, 550 U.S. 544, 555 & n.3 (2007). 20 In deciding a motion to dismiss, all material factual allegations of the complaint are 21 accepted as true, as well as all reasonable inferences to be drawn from them. *Cahill v. 22 Liberty Mut. Ins. Co.*, 80 F.3d 336, 338 (9th Cir. 1996). A court, however, need not accept 23 all conclusory allegations as true. Rather it must “examine whether conclusory allegations 24 follow from the description of facts as alleged by the plaintiff.” *Holden v. Hagopian*, 978 25 F.2d 1115, 1121 (9th Cir. 1992). A motion to dismiss should be granted if a plaintiff’s 26 complaint fails to contain “enough facts to state a claim to relief that is plausible on its 27 face.” *Twombly*, 550 U.S. at 570. “A claim has facial plausibility when the plaintiff pleads 28 factual content that allows the court to draw the reasonable inference that the defendant is 1 liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678 (citing *Twombly*, 550 U.S. at 2 556). 3 A complaint by a plaintiff proceeding pro se is “held to less stringent standards than 4 formal pleadings drafted by lawyers.” *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010) 5 (citation omitted). Pro se pleadings are construed liberally. Id. Nonetheless, courts may not 6 “supply essential elements of the claim that were not initially pled.” *Ivey v. Bd. of Regents*, 7 673 F.2d 266, 268 (9th Cir. 1982). A pro se litigant’s pleadings still must meet some 8 minimum threshold in providing the defendants with

notice of what it is that they allegedly 9 did wrong. See *Brazil v. U.S. Dep't of Navy*, 66 F.3d 193, 199 (9th Cir. 1995).

10 III. ANALYSIS

11 Defendant argues that this lawsuit should be dismissed because it fails to allege facts 12 sufficient to state a claim. The Court agrees. 13 “The tort of abuse of process arises when one uses the court’s process for a purpose 14 other than that for which the process was designed.” *Brown v. Kennard*, 94 Cal. App. 4th 15 40, 44 (Ct. App. 2001). “To succeed in an action for abuse of process, a litigant must 16 establish two elements: that the defendant (1) contemplated an ulterior motive in using the 17 process; and (2) committed a willful act in the use of the process not proper in the regular 18 conduct of the proceedings.” *Id.* “A showing of malice, whether express or implied, is 19 required.” *Slaughter v. Legal Process & Courier Serv.*, 162 Cal. App. 3d 1236, 1247 (Ct.

20 App. 1984)). “The gist of the tort is the misuse of the power of the court: It is an act done 21 under the authority of the court for the purpose of perpetrating an injustice, i.e., a perversion 22 of the judicial process to the accomplishment of an improper purpose.” *Younger v. 23 Solomon*, 38 Cal. App. 3d 289, 297 (Ct. App. 1974) (emphasis in original). Generally, such 24 an action “lies only where the process is used to obtain an unjustifiable collateral 25 advantage.” *Id.* (emphasis in original). 26 Here, the Complaint does not specify the prior lawsuit which he alleges that 27 Defendants wrongfully changed to another court or venue. However, the Court takes 28 judicial notice that in the space of approximately two months, Plaintiff filed five lawsuits 1 against Defendant in California Superior Court—all apparently pertaining to the same 2 dispute, and each of which Defendant removed to this Court on the basis of diversity of 3 citizenship. All five cases bear the same case caption, with the following case numbers: 4 25-cv-1994, 25-cv-2232, 25-cv-2379, 25-cv-2455 (the instant action), and 25-cv-2577. To 5 date, all four of the other lawsuits have been dismissed. 6 The Complaint here does not identify, and the Court does not find, anything 7 improper about these removals. Plaintiff has not moved to remand any of these actions to 8 state court. The removals are numerous and repetitive only by virtue of the fact that 9 Plaintiff’s lawsuits are numerous and repetitive. Reviewing the respective notices of 10 removal, the Court determines that removal in each case was properly based on federal 11 subject matter jurisdiction. 12 “A district court should not dismiss a pro se complaint without leave to amend unless 13 it is absolutely clear that the deficiencies of the complaint could not be cured by 14 amendment.” See *Rosati v. Igbinoso*, 791 F.3d 1037, 1039 (9th Cir. 2015). The Court 15 concludes that the deficiencies identified herein cannot be cured by amendment. The 16 Complaint in this case is based on the incorrect premise that it was wrongful to invoke the 17 jurisdiction of the federal courts through one or more removals that were proper and that 18 Plaintiff never challenged by motion. The Court also takes into account its dismissals of 19 Plaintiff’s related cases. As set forth in the Court’s respective dismissal orders, each of 20 these lawsuits has been meritless.

21 IV. CONCLUSION

22 For the foregoing reasons, Defendant's motion to dismiss [ECF No. 4] is 23 GRANTED. The
Complaint is DISMISSED without leave to amend. 24 The Clerk of Court is directed to close the
case. 25 // 26 // 27 // 28 // 1 In light of this disposition, Plaintiff's motion for leave to electronically
file 2 documents [ECF No. 9] is DENIED as moot.

3 IT IS SO ORDERED. ‘

4 || Dated: November 3, 2025 Feobkww ¢ Howe 5 Hon. Robert S. Huie United States District
Judge 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28