

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

OPINION

Royall

PER CURIAM.

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

IV. CONCLUSION

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

IT IS SO ORDERED. ‘

|| Dated: November 3, 2025 Feobkww ¢ Howe 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