

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF  
CALIFORNIA

Michael Ydigoras v. Costco Wholesale Corporation

Ydigoras v. Costco Wholesale Corporation, No. 3:25-cv-01394-RBM-MMP (S.D. Cal. Dec. 2, 2025) · No. 3:25-cv-01394-RBM-MMP · Decided December 2, 2025

SUMMARY

The United States District Court for the Southern District of California granted Costco Wholesale Corporation’s Rule 12(b)(6) motion to dismiss Michael Ydigoras’s claims. The court dismissed claims for ADA discrimination, negligence, ADA retaliation, and violation of the Unruh Civil Rights Act because the complaint did not adequately plead the required elements. The dismissal was without prejudice, and the plaintiff was granted leave to amend by January 5, 2026.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                            |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Southern District of California                                                                                                                                                                                                                                                                                       |
| WRITING FOR THE COURT | Ruth Bermudez Montenegro                                                                                                                                                                                                                                                                                                                                   |
| JURISDICTION          | United States District Court for the Southern District of California                                                                                                                                                                                                                                                                                       |
| DECIDED               | December 2, 2025                                                                                                                                                                                                                                                                                                                                           |
| DOCKET                | 3:25-cv-01394-RBM-MMP                                                                                                                                                                                                                                                                                                                                      |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                                                                      |
| PROCEDURAL POSTURE    | Defendant moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss Plaintiff's First Amended Complaint. The court granted the motion and dismissed all claims with leave to amend.                                                                                                                                                                  |
| STANDARD OF REVIEW    | On a Rule 12(b)(6) motion, the court tests the legal sufficiency of the claims, accepts well-pleaded factual allegations as true, construes the pleadings in the light most favorable to the nonmoving party, and liberally construes a pro se plaintiff's pleadings. A complaint must allege enough facts to state a facially plausible claim for relief. |
| PRECEDENTIAL VALUE    | unpublished                                                                                                                                                                                                                                                                                                                                                |

TOPICS

- motions to dismiss
- ada / disability
- public accommodations discrimination
- negligence
- civil procedure

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether Plaintiff plausibly alleged a Title III ADA discrimination claim based on Costco's alleged failure to make a reasonable and necessary modification.
2. Whether Plaintiff plausibly alleged negligence based on an alleged duty arising from the ADA reasonable-accommodation process.
3. Whether Plaintiff plausibly alleged ADA retaliation where he failed to state an underlying ADA discrimination claim.
4. Whether Plaintiff plausibly alleged a claim under the California Unruh Civil Rights Act based on disability discrimination.

## HOLDINGS

1. Plaintiff failed to state a Title III ADA discrimination claim because he did not sufficiently allege that he was an individual with a qualifying disability, that Costco employed a discriminatory policy or practice, or that the requested discussion was a necessary modification connected to disability-based discrimination.
2. Plaintiff failed to state a negligence claim because the ADA does not itself create an independent duty of care supporting a state-law negligence claim.
3. Plaintiff's possible ADA retaliation claim failed because he did not state the underlying ADA discrimination claim that serves as the predicate for retaliation.
4. Plaintiff failed to state an Unruh Act claim because he did not allege facts showing either a Title III ADA violation or intentional disability discrimination involving willful, affirmative misconduct.

## KEY QUOTATIONS

*“To succeed on a claim under that statutory provision, Plaintiff must show that: (1) he is disabled as that term is defined by the ADA; (2) [Defendant] is a private entity that owns, leases, or operates a place of public accommodation; (3) [Defendant] employed a discriminatory policy or practice; and (4) [Defendant] discriminated against [Plaintiff] based upon [Plaintiff’s] disability by (a) failing to make a requested reasonable modification that was (b) necessary to accommodate [Plaintiff’s] disability.”* (Section III.B)

*“A modification is “necessary” when failure to provide it would prevent a disabled customer from having “a like experience” as a non-disabled customer.”* (Section III.B.3)

*“the ADA does not create a duty of care giving rise to a negligence claim.”* (Section III.C)

*“there can be no retaliation . . . claim without an underlying ADA discrimination claim.”* (Section III.D)

## FACTUAL BACKGROUND

Plaintiff alleged that he is over sixty-five and disabled, visited Costco's Carlsbad warehouse on or about September 6, 2024, was denied service by one employee, and was stalked and intimidated by another. He

submitted an ADA reasonable-modification request seeking a discussion about the alleged conduct, but Costco did not arrange the requested discussion. Costco later cancelled Plaintiff's and his spouse's memberships, and Plaintiff alleged that he was denied entry to a Costco pharmacy.

## PROCEDURAL HISTORY

Plaintiff filed an initial complaint in California state court, and Defendant removed the case to federal court after Plaintiff filed an amended complaint in state court. The state court sustained Defendant's demurrer to the initial complaint. In federal court, Plaintiff opposed Defendant's Rule 12(b)(6) motion, but the court dismissed all claims with leave to amend.

## DISPOSITION

other

## CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- PGA Tour, Inc. v. Martin, 532 U.S. 661, 691–92 (2001)
- Tauscher v. Phx. Bd. of Realtors, Inc., 931 F.3d 959, 964 (9th Cir. 2019)
- Khoja v. Orexigen Therapeutics, Inc., 899 F.3d 988, 998 (9th Cir. 2018)
- In re Bozic, 888 F.3d 1048, 1051 n.1 (9th Cir. 2018)
- United States v. Howard, 381 F.3d 873, 876 n.1 (9th Cir. 2004)
- Conservation Force v. Salazar, 646 F.3d 1240, 1241–42 (9th Cir.)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Manzarek v. St. Paul Fire & Marine Ins. Co., 519 F.3d 1025, 1031 (9th Cir. 2008)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- Karczewski v. DCH Mission Valley LLC, 862 F.3d 1006, 1009 (9th Cir. 2017)
- Karczewski v. DCH Mission Valley LLC, 862 F.3d 1006, 1010 (9th Cir. 2017)
- Caputo v. City of San Diego Police Department, Case No. 16-cv-00943-AJB-BLM, 2018 WL 4092010, at \*8 (S.D. Cal. Aug. 28, 2018)
- Roughgarden v. YottaMark, Inc., No. 5:10-CV-04098 JF (PSG), 2011 WL 856279, at \*4 (N.D. Cal. Mar. 9, 2011)
- Drawsand v. F.F. Props., L.L.P., 866 F. Supp. 2d 1110, 1119 (N.D. Cal. 2012)
- Jones v. Nat'l R.R. Passenger Corp., Case No. 15-cv-02726-MEJ, 2016 WL 4538367, at \*2 (N.D. Cal. Aug. 31, 2016)
- Disabled Rights Action Comm. v. Fremont St. Experience L.L.C., 44 F. App'x 100, 103 (9th Cir. 2002)
- Fernandez v. O'Reilly Auto Enters., LLC, Case No. 2:19-cv-05464-ODW (KSx), 2021 WL 3403742, at \*3 (C.D. Cal. Aug. 3, 2021)
- Fernandez v. Fisher, Case No. 2:19-cv-06036-SB-JEM, 2021 WL 718296, at \*3 (C.D. Cal. Feb. 24, 2021)
- Bruns v. Nat'l Credit Union Admin., 122 F.3d 1251, 1257 (9th Cir. 1997)

- *Baughman v. Walt Disney World Co.*, 685 F.3d 1131, 1135 (9th Cir. 2012)
- *Fortyune v. Am. Multi-Cinema, Inc.*, 364 F.3d 1075, 1083 (9th Cir. 2004)
- *Strojnuk v. Bakersfield Convention Hotel I, LLC*, 436 F. Supp. 3d 1332, 1344 (E.D. Cal. 2020)
- *Jones v. Nat'l R.R. Passenger Corp.*, Case No. 15-cv-02726-TSH, 2023 WL 6450528, at \*4 (N.D. Cal. Oct. 2, 2023)
- *Estavillo v. Cortese*, Case No. 23-cv-04032-VKD, 2024 WL 2808651, at \*4 (N.D. Cal. May 30, 2024)
- *McColm v. San Francisco Hous. Auth.*, No. C 02-5810 PJH, 2015 WL 3396673, at \*7 (N.D. Cal. May 26, 2015)
- *Martinez v. Cot'n Wash, Inc.*, 81 Cal. App. 5th 1026, 1035 (2022)
- *Koebke v. Bernardo Heights County Club*, 36 Cal. 4th 824, 853 (2005)
- *C.B. v. Sonora Sch. Dist.*, 691 F. Supp. 2d 1123, 1155 (E.D. Cal. 2009)

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