

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

**Jermain Din Washington, Jr. v. Honeycomb Programs Inc., Gregory
Reid, and Itai Benzaken**

No. 2:25-cv-2992 DC AC PS (E.D. Cal. Jan. 6, 2026) · No. No. 2:25-cv-2992 DC AC PS · Decided January 7,
2026

OPINION

Jermain Din Washington, Jr. v. Honeycomb Programs Inc., Gregory Reid, and Itai Benzaken
PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 JERMAIN DIN WASHINGTON, Jr., No. 2:25-cv-2992 DC AC PS

12 Plaintiff, 13 v. ORDER

14 HONEYCOMB PROGRAMS INC.,

GREGORY REID, and ITAI BENZAKEN,

15 Defendants. 16

17 Plaintiff is proceeding in this action pro se. The case was accordingly referred to the 18
undersigned for pretrial purposes by E.D. Cal. 302(c)(21). Plaintiff has filed a request for leave 19
to proceed in forma pauperis (“IFP”) and submitted the affidavit required by that statute. See 28
20 U.S.C. § 1915(a)(1). The motion to proceed IFP will be granted. 21 Upon screening the
complaint, however, the court finds that federal jurisdiction is lacking 22 because plaintiff asserts
only a state law claim. Accordingly, the complaint will not be served. 23 Because the facts alleged
in the complaint suggest the possible existence of analogous federal 24 claims, however, plaintiff
will be given the opportunity to file an amended complaint that 25 properly invokes federal
question jurisdiction.

26 I. SCREENING

27 A. Legal Standard 28 The federal IFP statute requires federal courts to dismiss a case if the
action is legally 1 “frivolous or malicious,” fails to state a claim upon which relief may be granted
or seeks 2 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)
(2). 3 Plaintiff must assist the court in determining whether the complaint is frivolous, by drafting
the 4 complaint so that it complies with the Federal Rules of Civil Procedure (“Fed. R. Civ. P.”).
The 5 Federal Rules of Civil Procedure are available online at [www.uscourts.gov/rules-
policies/current-](http://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure) 6 [rules-practice-procedure/federal-rules-civil-procedure](http://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure). 7 Under the Federal

Rules of Civil Procedure, the complaint must contain (1) a “short and 8 plain statement” of the basis for federal jurisdiction (that is, the reason the case is filed in this 9 court, rather than in a state court), (2) a short and plain statement showing that plaintiff is entitled 10 to relief (that is, who harmed the plaintiff, and in what way), and (3) a demand for the relief 11 sought. Fed. R. Civ. P. 8(a). Plaintiff’s claims must be set forth simply, concisely and directly. 12 Fed. R. Civ. P. 8(d) (1). Forms are available to help pro se plaintiffs organize their complaint in 13 the proper way. They are available at the Clerk’s Office, 501 I Street, 4th Floor (Rm. 4-200), 14 Sacramento, CA 95814, or online at www.uscourts.gov/forms/pro-se-forms. 15 A claim is legally frivolous when it lacks an arguable basis either in law or in fact. 16 *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). In reviewing a complaint under this standard, the 17 court will (1) accept as true all of the factual allegations contained in the complaint, unless they 18 are clearly baseless or fanciful, (2) construe those allegations in the light most favorable to the 19 plaintiff, and (3) resolve all doubts in the plaintiff’s favor. See *Neitzke*, 490 U.S. at 327; *Von 20 Saher v. Norton Simon Museum of Art at Pasadena*, 592 F.3d 954, 960 (9th Cir. 2010), cert. 21 denied, 564 U.S. 1037 (2011). 22 The court applies the same rules of construction in determining whether the complaint 23 states a claim on which relief can be granted. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (court 24 must accept the allegations as true); *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974) (court must 25 construe the complaint in the light most favorable to the plaintiff). Pro se pleadings are held to a 26 less stringent standard than those drafted by lawyers. *Haines v. Kerner*, 404 U.S. 519, 520 27 (1972). However, the court need not accept as true conclusory allegations, unreasonable 28 inferences, or unwarranted deductions of fact. *Western Mining Council v. Watt*, 643 F.2d 618, 1 624 (9th Cir. 1981). A formulaic recitation of the elements of a cause of action does not suffice 2 to state a claim. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-57 (2007); *Ashcroft v. Iqbal*, 3 556 U.S. 662, 678 (2009). 4 To state a claim on which relief may be granted, the plaintiff must allege enough facts “to 5 state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. “A claim has 6 facial plausibility when the plaintiff pleads factual content that allows the court to draw the 7 reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 8 678. A pro se litigant is entitled to notice of the deficiencies in the complaint and an opportunity 9 to amend unless the complaint’s deficiencies could not be cured by amendment. See *Noll v. 10 Carlson*, 809 F.2d 1446, 1448 (9th Cir. 1987), superseded on other grounds by statute as stated in 11 *Lopez v. Smith*, 203 F.3d 1122 (9th Cir.2000)) (en banc). 12 B. The Complaint 13 The complaint alleges that plaintiff was a Honeycombs employee when Reid, his 14 manager, verbally harassed him on October 15, 2024. ECF No. 1 at 5. Specifically, Reid 15 commented that his favorite team in the Women’s National Basketball Association (“WNBA”) 16 should “recruit common citizens from Africa”. *Id.* He said it was a joke when plaintiff 17 confronted him. Plaintiff reported this joke to the Vice-President of Operations on October 24, 18 2024, arguing that the joke demonstrated animosity towards plaintiff’s race insofar as it relied on 19 the stereotype that people of color are athletic. *Id.* Plaintiff was fired soon thereafter. *Id.* 20 On July

15, 2025, the California Civil Rights Department (“CRD”) exercised its discretion 21 to close plaintiff’s complaint against Honeycomb without determining whether Reid’s joke or 22 plaintiff’s termination violated California’s Fair Employment and Housing Act (“FEHA”). Id. at 23 7. It therefore gave plaintiff notice of his right to sue under California Government Code § 24 12965. Id. This letter also informed plaintiff that his CRD complaint had been dual-filed with 25 the United States Equal Employment Opportunity Commission, whom plaintiff could petition to 26 review CRD’s decision to close the case. Id. 27 The complaint alleges federal subject matter jurisdiction based solely on plaintiff’s claim 28 under FEHA. Id. at 4. Plaintiff seeks backpay calculated from the October 25, 2024 filing date 1 of his CRD complaint to the date he filed this action, October 16, 2025. Id. at 6. He also seeks 2 six months’ front pay calculated from the same October 2025 filing date. Id. Based on a monthly 3 salary of \$7,916, requested damages therefore total \$134,580. Id. 4 C. Discussion 5 1. Federal Jurisdiction 6 “Federal courts are courts of limited jurisdiction.” *Kokkonen v. Guardian Life Ins. Co. of 7 Am.*, 511 U.S. 375, 377 (1994). In 28 U.S.C. §§ 1331 and 1332(a), Congress granted federal 8 courts jurisdiction over two general types of cases: cases that “arise under” federal law, § 1331, 9 and cases in which the amount in controversy exceeds \$ 75,000 and there is diversity of 10 citizenship among the parties, § 1332(a). These jurisdictional grants are known as “federal- 11 question jurisdiction” and “diversity jurisdiction,” respectively. *Home Depot U. S. A., Inc. v. 12 Jackson*, 587 U.S. 435, 437 (2019). 13 Plaintiff has failed to establish that this court has subject matter jurisdiction, based either 14 on diversity of parties or federal question. See Fed. R. Civ. P. 8(a)(1) (requiring that complaint 15 establish basis for jurisdiction). As both plaintiff and all named defendants are California citizens 16 (ECF No. 1 at 2-3), this case does not qualify for diversity jurisdiction. Although plaintiff 17 invokes federal question jurisdiction, id. at 3, the only cause of action referenced in the complaint 18 arises under FEHA, id. at 4. FEHA is a California state law, and federal question jurisdiction 19 exists only where at least one claim in the complaint arises under federal law. *Ultramar America, 20 Ltd. v. Dwelle*, 900 F.2d 1412, 1413-1414 (9th Cir. 1990). 21 Because the complaint as pleaded fails to provide a basis for federal question jurisdiction, 22 it cannot be served. However, because the complaint suggests that plaintiff may intend to bring a 23 federal claim for employment discrimination, he will be permitted to file an amended complaint 24 that attempts to cure the jurisdictional defect. 25 2. Title VII 26 Title VII of the Civil Rights Act of 1964 prohibits employers from “discriminat[ing] ... 27 against any individual with respect to his compensation, terms, conditions, or privileges of 28 employment, because of such individual’s race, color, religion, sex, or national origin[.]” 42 1 U.S.C. § 2000e-2(a)(1). Among other things, Title VII prohibits both retaliation and, in some 2 cases, harassment. 3 a. Retaliation 4 To establish a prima facie case of retaliation under Title VII, a plaintiff must plead facts 5 demonstrating that: (1) he engaged in a protected activity under Title VII; (2) he suffered an 6 adverse employment decision; and (3) there was a causal link between the protected activity and 7 the adverse employment decision. *Villiarimo v. Aloha Island Air, Inc.*, 281 F.3d 1054, 1064 (9th

8 Cir. 2002). Filing an internal complaint to upper management about coworker misconduct is a
9 form of protected activity, provided that the plaintiff reasonably believed that the employment
10 practice he contested was prohibited under Title VII. See *Trent v. Valley Elec. Ass’n Inc.*, 41 11
F.3d 524, 526 (9th Cir. 1994); *Kotcher v. Rosa and Sullivan Appliance Ctr., Inc.*, 957 F.2d 59, 65
12 (2d Cir. 1992). 13 Plaintiff alleges that he reported Reid’s racist comment to a supervisor, the
Vice President 14 of Operations, and was fired as a result. ECF No. 1 at 5. He also alleges that he
believed the 15 comment was motivated by racial animosity. *Id.* at 5. Accordingly, reporting the
comment could 16 constitute protected activity. If plaintiff wishes to assert a claim for retaliation
under Title VII, he 17 may attempt to do so in an amended complaint. 18 b. Hostile Work
Environment 19 Title VII prohibits the creation of a hostile work environment, where “the
workplace is 20 permeated with discriminatory intimidation, ridicule, and insult ... that is
sufficiently severe or 21 pervasive to alter the conditions of the victim's employment and create an
abusive working 22 environment.” *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 21 (1993).
Harassment violates Title 23 VII when it rises to the level of a hostile work environment. *Oncale*
v. Sundowner Offshore 24 Servs., Inc., 523 U.S. 75, 78 (1998). Plaintiff alleges that he was
verbally harassed. ECF No. 1 at 25 5. 26 To establish a *prima facie* case for a hostile work
environment under Title VII, a plaintiff 27 must plead: (1) he was subjected to verbal or physical
conduct based on a protected class; (2) the 28 conduct was unwelcome; and (3) the conduct was
sufficiently severe or pervasive to alter the 1 conditions of his employment and create an abusive
working environment. *Surrell v. Cal. Water 2 Serv. Co.*, 518 F.3d 1097, 1108 (9th Cir. 2008).
Courts consider all of the circumstances in 3 determining whether these criteria are met,
“including the frequency of the allegedly 4 discriminatory conduct, its severity, and whether it
unreasonably interferes with an employee’s 5 work performance.” *Id.* In determining whether
conduct was sufficiently severe to constitute a 6 Title VII claim, “[c]ontext matters. Workplace
conduct is to be viewed cumulatively and 7 contextually, rather than in isolation. This approach
makes common sense in order to screen out 8 one-off, isolated events and yet benchmark conduct
in the context of a specific workplace.” 9 *Sharp v. S&S Activewear, L.L.C.*, 69 F.4th 974, 978 (9th
Cir. 2023) (internal citations omitted). 10 “The question is whether the alleged offensive conduct
was sufficiently severe or pervasive to 11 alter the conditions of employment.” *Equal Emp.*
Opportunity Comm’n v. Tesla, Inc., 727 F.

12 Supp. 3d 875, 890 (N.D. Cal. 2024) (emphasis original). “In evaluating the significance of the
13 statements in question, we consider the objective hostility of the workplace from the
perspective 14 of the plaintiff.” *McGinest v. GTE Serv. Corp.*, 360 F.3d 1103, 1115 (9th Cir.
2004). 15 “[A]llegations of a racially hostile workplace must be assessed from the perspective of a
16 reasonable person belonging to the racial or ethnic group of the plaintiff.” *Id.* 17 Plaintiff
alleges, or at least implies, that he is an African American who felt personally 18 attacked by
Reid’s comment that people of color are inherently good at basketball. See ECF No. 19 1 at 5. A
single comment from one manager reflecting a racial stereotype is insufficient, without 20 more,

to demonstrate pervasive conduct creating a hostile work environment. However, if plaintiff is aware of additional facts that could support a hostile work environment claim, he may add such a claim in an amended complaint. 3. Benzaken as a Defendant It is unclear from the face of the complaint why plaintiff lists Itai Benzaken as a defendant. None of the allegations of wrongdoing concern Benzaken, and the complaint lists him only as “agent of service.” ECF No. 1 at 3, 5. This suggests that plaintiff has named him based on a misconception that the agent of service for a corporate defendant is also a party to the action. In any event, the complaint does not suggest any basis for awarding damages or other relief as 1 against Benzaken. In amending the complaint, plaintiff should identify as defendants only those 2 persons and entities who are alleged to have violated plaintiff’s rights and against whom he seeks 3 relief. 4 4. Supplemental Jurisdiction 5 Should an amended complaint provide a proper basis for federal question jurisdiction, 6 then it may also include related state law claims such as plaintiff’s cause of action under FEHA. 7 The federal court may exercise supplemental jurisdiction over state-law claims provided that they 8 “are so related to claims in the action within such original jurisdiction that they form part of the 9 same case or controversy under Article III of the United States Constitution.” 28 U.S.C. § 10 1367(a). 11 5. Conclusion 12 The complaint before the court is not suitable for service because it fails to establish that 13 the federal court has subject matter jurisdiction over this action. However, a pro se litigant is 14 entitled to notice of the deficiencies in the complaint and an opportunity to amend unless the 15 complaint’s deficiencies could not be cured by amendment. See *Noll v. Carlson*, 809 F.2d 1446, 16 1448 (9th Cir. 1987). Here the allegations of the complaint suggest that plaintiff may be able to 17 bring a federal claim that would support jurisdiction. Accordingly, plaintiff will be provided an 18 opportunity to file an amended complaint that includes a federal claim and names as defendants 19 only those from whom plaintiff seeks relief.

20 II. AMENDING THE COMPLAINT

21 If plaintiff chooses to amend the complaint, the amended complaint must allege facts 22 establishing the existence of federal jurisdiction. To invoke the court’s federal question 23 jurisdiction, the amended complaint must include at least one claim based on a federal law. In 24 addition, it must contain a short and plain statement of each of plaintiff’s claims. Each cause of 25 action should be clearly identified, and multiple causes of action should be consecutively 26 numbered. 27 The allegations of the complaint must be set forth in sequentially numbered paragraphs, 28 with each paragraph number being one greater than the one before, each paragraph having its own 1 number, and no paragraph number being repeated anywhere in the complaint. Each paragraph 2 should be limited “to a single set of circumstances” where possible. Rule 10(b). As noted above, 3 forms are available to help plaintiffs organize their complaint in the proper way. They are 4 available at the Clerk’s Office, 501 I Street, 4th Floor (Rm. 4-200), Sacramento, CA 95814, or 5 online at www.uscourts.gov/forms/pro-se-forms. 6 Plaintiff must avoid excessive repetition of the same allegations. Plaintiff must avoid 7 narrative and storytelling. That is, the

complaint should not include every detail of what 8 happened, nor recount the details of conversations (unless necessary to establish the claim), nor 9 give a running account of plaintiff's hopes and thoughts. Rather, the amended complaint should 10 contain only those facts needed to show how the defendant legally wronged the plaintiff. 11 The amended complaint must not force the court and the defendants to guess at what is 12 being alleged against whom. See McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996) 13 (affirming dismissal of a complaint where the district court was "literally guessing as to what 14 facts support the legal claims being asserted against certain defendants"). The amended 15 complaint must not require the court to spend its time "preparing the 'short and plain statement' 16 which Rule 8 obligated plaintiffs to submit." Id. at 1180. The amended complaint must not 17 require the court and defendants to prepare lengthy outlines "to determine who is being sued for 18 what." Id. at 1179. 19 Also, the amended complaint must not refer to a prior pleading or a separate motion to 20 make plaintiff's amended complaint complete. Any amended complaint must be complete 21 without reference to any prior pleading. Local Rule 220. This is because, as a general rule, an 22 amended complaint supersedes the original complaint. See Pacific Bell Tel. Co. v. Linkline 23 Communications, Inc., 555 U.S. 438, 456 n.4 (2009) ("[n]ormally, an amended complaint 24 supersedes the original complaint") (citing 6 C. Wright & A. Miller, Federal Practice & 25 Procedure § 1476, pp. 556-57 (2d ed. 1990)). Therefore, in an amended complaint, as in an 26 original complaint, each claim and the involvement of each defendant must be sufficiently 27 alleged. 28 ///

1 II]. PRO SE PLAINTIFF'S SUMMARY

2 You are being granted in forma pauperis status and do not have to pay the filing fee. 3 || However, because this court does not have jurisdiction over a FEHA claim unless there is also a 4 || federal claim, your case cannot proceed. For the federal court to exercise jurisdiction, you must 5 || file an amended complaint that includes a federal claim such as a claim under Title VII. In 6 || deciding whether and how to amend, you should consider the information provided above about 7 || Title VII and about amendment. An amended complaint should name as defendants only those 8 || persons and entities who you believe violated your legal rights and against whom you seek relief. 9 You are being given 30 days to submit an amended complaint. If you do not submit an 10 || amended complaint by the deadline, the magistrate judge will recommend that the case be 11 | dismissed.

12 IV. CONCLUSION

13 Accordingly, IT IS HEREBY ORDERED that: 14 1. Plaintiffs request to proceed in forma pauperis (ECF No. 2) is GRANTED; 15 2. Plaintiff shall have 30 days from the date of this order to file an amended complaint which 16 complies with the instructions given above. If plaintiff fails to timely comply with this 17 order, the undersigned may recommend that this action be dismissed. 18 | DATED: January 6, 2026 ~ Cttd0 Lhar—e_ ALLISONCLAIRE.

20 UNITED STATES MAGISTRATE JUDGE

21 22 23 24 25 26 27 28

