UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

Seyed Saeid Zamanieh Shahri v. Losrios Community College District

Zamanieh Shahri · No. 2:23-cv-1569-DJC-JDP (PS) · Decided May 20, 2025

SUMMARY

A United States Magistrate Judge recommends granting in part a defendant's motion to dismiss and motion to strike in a pro se Title VII retaliation action. The recommendation concludes that the retaliation claim concerning the plaintiff's May 2020 termination was timely and adequately pleaded, while other claims should be dismissed as untimely. It also recommends striking an immaterial addendum and portions of the requested relief.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 20, 2025
DOCKET	2:23-cv-1569-DJC-JDP (PS)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff's first amended complaint asserted Title VII retaliation claims arising from his employment termination and related events. Defendant moved to dismiss under Federal Rule of Civil Procedure 12(b)(6) and moved to strike portions of the amended complaint. The magistrate judge issued findings and recommendations recommending that the motion to dismiss and motion to strike each be granted in part.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true, construes them in the light most favorable to the nonmoving party, and asks whether the complaint states a facially plausible claim. Dismissal may be based on the absence of a cognizable legal theory, insufficient facts under a cognizable theory, or an allegation that necessarily defeats the claim.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Seyed Saeid Zamanieh Shahri v. Losrios Community College District

TOPICS

motions to dismiss · retaliation · title vii · statute of limitations · civil procedure

PRACTICE AREAS

employment law · civil rights · civil procedure

QUESTIONS PRESENTED

1. Whether the first amended complaint satisfied Federal Rule of Civil Procedure 8 with respect to the retaliation claim.
2. Whether the Title VII claims were timely under the ninety-day period following receipt of an EEOC right-to-sue notice.
3. Whether later EEOC charges and right-to-sue notices rendered the retaliation claim based on the May 2020 termination untimely.
4. Whether allegations concerning nonparty individuals and requests for relief beyond the scope of the action should be stricken under Federal Rule of Civil Procedure 12(f).

HOLDINGS

1. Although the amended complaint was poorly organized, lengthy, and digressive, it satisfied Rule 8 because it gave defendant notice of the retaliation claim forming the primary basis of the suit.
2. The retaliation claim concerning plaintiff's May 2020 termination and set forth in EEOC charge 555-2020-01236 was timely because plaintiff filed suit within ninety days after receiving the associated right-to-sue notice.
3. The later EEOC charges did not make the earlier, pending charge concerning the May 2020 termination untimely or extend the limitations period, because the later charges involved different adverse actions and were filed before the right-to-sue notice on the second charge.
4. All claims other than the retaliation claim set forth in EEOC charge 555-2020-01236 should be dismissed without leave to amend as untimely.
5. The addendum and portions of the statement of demands should be stricken because they contained immaterial, irrelevant, scandalous, or otherwise improper matter and sought relief beyond the scope of the action.

KEY QUOTATIONS

> *"To survive a motion to dismiss for failure to state a claim, a plaintiff must allege "enough facts to state a claim to relief that is plausible on its face.""* (at 2)

> *"Here, despite the chaff that surrounds it, there is a comprehensible statement of plaintiff's claim at the core of the complaint."* (at 3)

> *"The function of the period is to act as a statute of limitations, and plaintiff's actions neither extended nor circumvented it."* (at 4)

FACTUAL BACKGROUND

Plaintiff and his wife were employed as professors by Los Rios Community College District beginning around August 8, 2018. Plaintiff alleged that his supervisor sexually harassed his wife and retaliated against both of them, after which the District conducted an internal investigation and terminated them on May 21, 2020. Plaintiff filed multiple EEOC charges; the charge at issue, 555-2020-01236, alleged retaliation for invoking Title VII rights and concerned the May 2020 termination. The EEOC issued a right-to-sue notice on May 9, 2023, and plaintiff filed this action on July 31, 2023.

PROCEDURAL HISTORY

The initial complaint was dismissed with leave to amend as noncompliant with Federal Rule of Civil Procedure 8. Plaintiff filed a first amended complaint, and defendant moved to dismiss it and to strike portions of it. The magistrate judge recommended that the retaliation claim concerning plaintiff's May 2020 termination, as stated in EEOC charge 555-2020-01236, proceed, while all other claims be dismissed without leave to amend as untimely; the recommendations were submitted to the assigned district judge under 28 U.S.C. § 636(b)(1).

DISPOSITION

other

CASES CITED

- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Chubb Custom Ins. Co. v. Space Sys./Loral, Inc., 710 F.3d 946, 956 (9th Cir. 2013)
- Akhtar v. Mesa, 698 F.3d 1202, 1212 (9th Cir. 2012)
- Franklin v. Murphy, 745 F.2d 1221, 1228-1229 (9th Cir. 1984)
- Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010)
- Bretz v. Kelman, 773 F.2d 1026, 1027 n.1 (9th Cir. 1985) (en banc)
- Scholar v. Pacific Bell, 963 F.2d 264, 267 (9th Cir. 1992)
- Harrach v. Berryhill, No. CV-17-04244-PHX-DLR, 2018 U.S. Dist. LEXIS 214394, *10 (D. Ariz. Dec. 18, 2018)
- Jackson v. Costco Wholesale Corp., No. 6:20-cv-04415-DCC, 2022 U.S. Dist. LEXIS 76505 (D.S.C. Apr. 27, 2022)
- Valenzuela v. Kraft, 801 F.2d 1170, 1174 (9th Cir. 1986)
- Overstreet v. Living Spaces Furniture LLC, No. CV-23-00248-PHX-ROS, 2023 U.S. Dist. LEXIS 117010, *8-11 (D. Ariz. July 7, 2023)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991)

OPINION

(PS) Zamanieh Shahri v. Losrios Community College District

PER CURIAM.

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

SEYED SAEID ZAMANIEH SHAHRI, Case No. 2:23-cv-1569-DJC-JDP (PS)

Plaintiff,

v. FINDINGS AND RECOMMENDATIONS

LOSRIOS COMMUNITY COLLEGE DISTRICT,

Defendant.

Plaintiff, proceeding pro se, brings this case against defendant Los Rios Community College District, alleging that it violated Title VII of the Civil Rights Act of 1964 by unlawfully terminating his employment in retaliation for a discrimination complaint that he and his wife filed with the United States Equal Employment Opportunity Commission ("EEOC"). ECF No. 42 at 14. Defendant has filed a motion to dismiss the operative complaint, ECF No. 44, and a separate motion to strike portions of the operative complaint, ECF No. 45. For the reasons stated below, I recommend that the motion to dismiss be granted in part and the motion to strike be granted in part.

Motion to Dismiss

I. Legal Standards

A complaint may be dismissed under that rule for "failure to state a claim upon which relief may be granted." Fed. R. Civ. P. 12(b)(6). To survive a motion to dismiss for failure to state a claim, a plaintiff must allege "enough facts to state a claim to relief that is plausible on its face." Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007). A claim has "facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing Twombly, 550 U.S. at 556). The plausibility standard is not akin to a "probability requirement," but it requires more than a sheer possibility that a defendant has acted unlawfully. Iqbal, 556 U.S. at 678.

For purposes of dismissal under Rule 12(b)(6), the court generally considers only allegations contained in the pleadings, exhibits attached to the complaint, and matters properly subject to judicial notice, and construes all well-pleaded material factual allegations in the light most favorable to the nonmoving party. Chubb Custom Ins. Co. v. Space Sys./Loral, Inc., 710 F.3d 946, 956 (9th Cir. 2013); Akhtar v. Mesa, 698 F.3d 1202, 1212 (9th Cir. 2012). Dismissal under Rule 12(b)(6) may be based on either: (1) lack of a cognizable legal theory, or (2) insufficient facts under a cognizable legal theory. Chubb Custom Ins. Co., 710 F.3d at 956. Dismissal also is appropriate if the complaint alleges a fact that necessarily defeats the claim. Franklin v. Murphy, 745 F.2d 1221, 1228-1229 (9th Cir. 1984).

II. Background

This action proceeds on the first amended complaint. ECF No. 42. The initial complaint was dismissed with leave to amend as non-compliant with Rule 8. ECF No. 39. The operative, amended complaint is still difficult to decipher in parts. There are forty-one pages of poorly organized allegations accompanied by one hundred forty-eight pages of exhibits. ECF No. 42.

Plaintiff alleges that defendant employed him and his wife as professors and physiology on or about August 8, 2018. ECF No. 42 at 12-13. He claims that their immediate supervisor, Gregory McCormac, sexually harassed his wife and retaliated against them. Id. at 13. Defendant conducted an internal investigation of her allegations and ultimately determined that they could not be substantiated. Id. at 14. Plaintiff and his wife were terminated on May 21, 2020, by McCormac. Id. No reason was initially offered for the termination, but later an employee of defendant informed plaintiff that the termination was part of a pandemic related reduction in courses. Id.

Plaintiff alleges that an EEOC investigation was initiated at some point in 2020 and, after two years, determined that defendant was guilty of violating Title VII of the Civil Rights Act. Id. at 16. He claims that during this investigation defendant "attempted to mislead the course of justice" and "manipulate the investigation's outcome." Id. In total, plaintiff brought four separate EEOC charges.[1] Plaintiff has emphasized that he intends this action to proceed only on the second charge, numbered 555-2020-01236. ECF No. 49 at 2. That charge alleges that defendant retaliated against him for invoking his Title VII rights. ECF No. 44-2 at 11-12.

III. Analysis

After review of the pleadings, I find that defendant's motion to dismiss should be granted in part. Specifically, all claims in the complaint, other than the retaliation claim recited in charge 555-2020-01236 should be dismissed. In so recommending, I reject, for the reasons to follow, defendant's arguments that the entirety of the complaint should be dismissed without leave to amend.

A. Rule 8

Defendant's first argument is that the amended complaint, like its predecessor, is non-compliant with Rule 8 of the Federal Rules of Civil Procedure. I disagree. As an initial matter, pro se pleadings are liberally construed. Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010). In weighing a pro se litigant's pleadings, a court must afford that party "the benefit of any doubt." Bretz v. Kelman, 773 F.2d 1026, 1027 n.1 (9th Cir. 1985) (en banc). It cannot be disputed that plaintiff's complaint is lacking in many respects. It suffers from poor organization, is too long, and is often digressive. Nevertheless, it is sufficient insofar as it puts the defendant on notice of the retaliation claim that forms the primary basis for this suit, and that makes it compliant with Rule 8, which requires only "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). Here, despite the chaff that surrounds it, there is a comprehensible statement of plaintiff's claim at the core of the complaint.

B. Timeliness

Next, defendant argues that plaintiff's suit was untimely insofar as it was filed more than ninety days

1 Defendant asks that I take judicial notice of the EEOC documents that it appends to its motion to dismiss. ECF No. 44-2 at 1. I will do so. Courts in this circuit have taken judicial notice of portions of EEOC documentation in similar circumstances. See Overstreet v. Living Spaces Furniture LLC, No. CV-23-00248-PHX-ROS, 2023 U.S. Dist. LEXIS 117010, *8-11 (Dist. Ariz. Jul. 7, 2023).

after receipt of the right to sue notice. A lawsuit based on an EEOC charge must be filed within ninety days of the associated notice of the right to sue. See Scholar v. Pacific Bell, 963 F.2d 264, 267 (9th Cir. 1992) ("When the Equal Employment Opportunity Commission (EEOC) dismisses a claim, it is required to notify claimant and to inform claimant that she has 90 days to bring a civil action. The requirement for filing a Title VII civil action within 90 days from the date EEOC dismisses a claim constitutes a statute of limitations.") (internal citations omitted). Where a plaintiff files multiple EEOC charges, she may not re-allege the same claims from an earlier charge to restart the ninety-day clock. See Harrach v. Berryhill, No. CV-17-04244-PHX-DLR, 2018 U.S. Dist. LEXIS 214394, *10 (Dist. Ariz. Dec. 18, 2018) ("Allowing a plaintiff to re-allege claims from an earlier EEOC charge in a subsequent EEOC charge would render the 90-day statute of limitations meaningless because a plaintiff could evade the deadline simply by seeking another right-to-sue letter.").

Here, plaintiff filed four EEOC charges. The first, charge 555-2020-00833, was filed on March 19, 2020. ECF No. 44-2 at 4. The second, charge 555-2020-01236, was filed on September 10, 2020. Id. at 11. The third, charge 555-2021-00520, was filed on February 4, 2021. Id. at 18. The fourth, charge 555-2022-00730, was filed on May 17, 2022. Id. at 28. Plaintiff has emphasized that she intends this action to proceed only on the second charge, numbered 555-2020-01235. ECF No. 49 at 2. That charge was filed on September 10, 2020, ECF No. 44-2 at 11-12, and he received notice of her right to sue on May 9, 2023, id. at 16. Plaintiff filed this action on July 31, 2023, within the ninety-day deadline specified by that notice of her right to sue. ECF No. 1.

Defendant contends that plaintiff's complaint is untimely, because his other three charges received their own notices of right to sue, and plaintiff did not file his complaint within ninety days of those deadlines. I agree in part. The first charge, which advanced a claim related to retaliation that occurred before the alleged termination is untimely insofar as the attendant right to sue notice is dated March 20, 2020. ECF No. 44-2 at 8. The other two charges, however, were filed while the second was pending. Thus, plaintiff did not use them to attempt to circumvent the ninety-day deadline. The only case that defendant cites supporting the argument that later charges render an earlier, pending charge untimely, is from the district of South Carolina and, thus, nonbinding. See Jackson v. Costco Wholesale Corp., No. 6:20-cv-04415-DCC, 2022 U.S. Dist. LEXIS 76505 (D.S.C. Apr. 27, 2022). Moreover, here, a substantial amount of time passed between the filing of the second charge and its attendant notice of right to sue, from September 2020 to May 2023. ECF No. 44-2 at 11, 16. It is understandable, then, that plaintiff might have believed that filing additional charges were warranted. Those additional charges did not extend the ninety-day deadline because the notice of right to sue had not issued and it makes little sense to penalize plaintiff for filing them. The function of the period is to act as a statute of limitations, and plaintiff's actions neither extended nor circumvented it. See Valenzuela v. Kraft, 801 F.2d 1170, 1174 (9th Cir. 1986) ("[T]he 90-day filing period is a statute of limitations subject to equitable tolling in appropriate circumstances.”). More importantly, plaintiff’s third and fourth charges challenge different adverse actions than does his second. Although all three complain of retaliation in response to his first EEOC charge, the third alleges that in January 2021, defendant improperly revoked his access to his work email account in January 2021, ECF No. 44-2 at 19; the fourth alleges that defendant improperly refused to rehire plaintiff for the Spring 2022 semester, id. at 29. Accordingly, I find that the retaliation claim contained in charge 555-2020-01236, which challenges plaintiff’s May 2020 termination, to be timely, and I further find that it constitutes the only valid claim in this suit. All other claims, to the extent the complaint purports to raise any, should be dismissed.

Motion to Strike

I also recommend that defendant’s motion to strike be granted in part. Therein, it argues that the “addendum” and “statement of demand, relief, and requests” portions of the complaint should be struck. ECF No. 45-1 at 3-4. The addendum, defendant argues, contains allegations that are immaterial, impertinent, and scandalous. The statement of demand, it argues, contains requests for unavailable relief, such as firing offending staff. These arguments are well taken. Under Federal Rule of Civil Procedure 12(f), a court may “strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” Fed. R. Civ. P. 12(f). The addendum is plainly immaterial insofar as it alleges various misdeeds by a laboratory technician and college volunteer. ECF No. 42 at 36-41. These allegations are irrelevant insofar as they, as alleged, do not reflect any misdeeds by defendant. Instead, the addendum implicates only individuals who are not part of this suit. I will also strike the portions of the statement of demand that seek the termination of other employees, enforcement of state court orders, and “assurances and preventative measures” that require non-defendant employees of the defendant to issue written statements crafted to plaintiff’s liking. These requests for relief are beyond the purview of this suit.

Conclusion

Accordingly, it is RECOMMENDED that:

1. Defendant’s motion to dismiss, ECF No. 44, be GRANTED in part as follows:
   a. all claims other than the retaliation claim set forth in charge 555-2020-01236 be DISMISSED without leave to amend as untimely; and
   b. the motion be denied in all other respects.
2. Defendant’s motion to strike, ECF No. 45, be GRANTED in part as follows:
   a. The “addendum” portion of the amended complaint, ECF No. 42, be stricken, as are the portions of the “statement of demands” set forth in the analysis above; and
   b. The motion be denied in all other respects.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days of service of these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Any such document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations,” and any response shall be served and filed within fourteen days of service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court’s order. See Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991).

IT IS SO ORDERED.

(ow — Dated:

_ May 20, 2025 aw——

JEREMY D. PETERSON

UNITED STATES MAGISTRATE JUDGE