

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

John Valdivia v. Miriam Vasquez, et al.

Valdivia v. Vasquez · No. 1:24-cv-00597-SKO · Decided November 10, 2025

SUMMARY

The United States District Court for the Eastern District of California construed Plaintiff John Valdivia’s lodged first amended complaint as a motion for leave to amend and granted that motion. The court directed the Clerk to file the amended complaint, terminated Defendant Miriam Vasquez’s original motion to dismiss as moot, and directed the plaintiff to file an opposition or statement of non-opposition to the later motion to dismiss within 30 days. The order warned that failure to respond would result in the later motion being deemed unopposed.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sheila K. Oberto
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	November 10, 2025
DOCKET	1:24-cv-00597-SKO
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff submitted a proposed first amended complaint without a motion for leave to amend. Defendant had filed an original motion to dismiss and later filed a second motion to dismiss directed to the proposed amended complaint. The court construed the lodged amended complaint as a motion for leave to amend, granted leave, directed the Clerk to file the amended complaint, terminated the original motion to dismiss as moot, and ordered plaintiff to respond to the second motion to dismiss.
PRECEDENTIAL VALUE	Unknown; district court procedural order with no reporter or neutral citation

TOPICS

- motion to amend
- motions to dismiss
- pleadings
- civil rights
- civil procedure

PRACTICE AREAS

Civil procedure

Civil rights

QUESTIONS PRESENTED

1. Whether the court could construe plaintiff's lodged first amended complaint as a motion for leave to amend despite the absence of a formal motion.
2. Whether leave to amend should be granted and the lodged amended complaint filed.
3. Whether defendant's original motion to dismiss should be terminated as moot after defendant filed a second motion addressing the amended complaint.
4. What briefing plaintiff must file in response to defendant's second motion to dismiss.

HOLDINGS

1. Because defendant had already appeared, plaintiff was required to obtain written consent or court leave to amend. The court nevertheless construed plaintiff's lodged first amended complaint as including a motion for leave to amend.
2. The motion for leave to amend was granted, and the Clerk was directed to file the lodged first amended complaint.
3. The original motion to dismiss filed August 15, 2025, was terminated as moot because defendant filed a second motion addressing the amended complaint.
4. Plaintiff was ordered to file only an opposition or statement of non-opposition to defendant's November 5, 2025, motion to dismiss and was not permitted to file another amended complaint in response.

KEY QUOTATIONS

"The Court will nonetheless construe Plaintiff's lodged first amended complaint to include a motion for leave to amend, and, to that extent, will grant the motion and direct the Clerk to file the lodged complaint." (at 2)

"Accordingly, the Court will terminate the original motion to dismiss, filed August 15, 2025, as moot." (at 2)

FACTUAL BACKGROUND

John Valdivia, proceeding pro se and in forma pauperis as a civil detainee, brought constitutional claims against Miriam Vasquez. After Vasquez appeared and filed a motion to dismiss, Valdivia submitted a first amended complaint without a motion seeking leave to amend. Vasquez subsequently filed a second motion to dismiss addressing the proposed amended complaint.

PROCEDURAL HISTORY

Defendant filed an original motion to dismiss on August 15, 2025. After plaintiff failed to timely respond, the court issued an order to show cause, and plaintiff later lodged a first amended complaint on October 20, 2025. Defendant filed a second motion to dismiss addressing the amended complaint on November 5, 2025. The court granted leave to amend, ordered the lodged complaint filed, terminated the original motion to dismiss as moot, and set briefing requirements for the second motion.

DISPOSITION

other

CASES CITED

- Williams v. Jalijali, No. 2:22-cv-00605-JDP (PC), 2023 WL 4743019, at *1, *3 (E.D. Cal. July 25, 2023)
- Watison v. Carter, 668 F.3d 1108, 1112 (9th Cir. 2012)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 JOHN VALDIVIA, Case No.: 1:24-cv-00597-SKO 12 Plaintiff, ORDER
CONSTRUING LODGED FIRST AMENDED COMPLAINT TO BE MOTION 13 v. TO
AMEND COMPLAINT AND PROPOSED FIRST AMENDED 14 MIRIAM VASQUEZ, et al.,
COMPLAINT 15 Defendants. (Doc. 20) 16 ORDER TERMINATING MOTION TO DISMISS
FILED AUGUST 15, 2025 17 (Doc.

15) 18 ORDER DIRECTING PLAINTIFF TO FILE 19 OPPOSITION OR STATEMENT OF
NON- OPPOSITION TO MOTION TO DISMISS 20 FILED NOVEMBER 5, 2025, WITHIN 30
DAYS 21 22 23 Plaintiff John Valdivia, a civil detainee, is appearing pro se and in forma pauperis
in this 24 civil rights action. This action proceeds on Plaintiff’s constitutional claims against
Defendant 25 Vasquez.

26 I. RELEVANT BACKGROUND 27 On August 15, 2025, Defendant filed a Notice of
Appearance (Doc. 11), Defendant 1 Vasquez’s Memorandum of Points and Authorities in Support
of Motion to Dismiss (Doc. 13), a 2 second or duplicate Notice of Appearance (Doc. 14), and a
second filing titled Defendant Miriam 3 Vasquez’s Notice of Motion and Motion to Dismiss (Doc.
15).

4 On August 20, 2025, Defendant filed Defendant Miriam Vasquez’s Notice of Errata 5 Regarding
Motion to Dismiss. (Doc. 16.) 6 In response to Defendant’s notice of errata, the Court entered a
minute order on August 7 21, 2025. (See Docket Entry No. 17.) At Defendant’s request, the Court
struck docket entry 8 numbers 12 and 13 as filed in error. (Id.)

The Court also directed Plaintiff “to file any opposition 9 or statement of non-opposition” to the
motion to dismiss “within 21 days of the date of this 10 minute order.” (Id.) 11 On September 19,
2025, when Plaintiff failed to respond within 21 days, the Court issued 12 its Order to Show Cause
(OSC) in Writing Why Sanctions Should Not Be Imposed for Plaintiff’s 13 Failure to File an
Opposition or Statement of Non-Opposition.

(Doc. 18.) Plaintiff was directed to 14 respond in writing explaining why sanctions should not be
imposed, or, in the alternative, to file 15 an opposition or statement of non-opposition to

Defendant's motion within 14 days. (Id. at 3.) 16 On October 8, 2025, Defendant filed Defendant's Notice of Plaintiff's Non-Opposition to 17 Defendant's Motion to Dismiss.

(Doc. 19.) On October 20, 2025, the Court lodged Plaintiff's 18 first amended complaint. (Doc. 20.) 19 On November 5, 2025, Defendant filed a second motion to dismiss, addressing the 20 substance of Plaintiff's first amended complaint. (Doc. 21.) 21 As discussed below, the Court will construe Plaintiff's lodged first amended complaint to 22 include a motion to amend and grant the motion.

It will also terminate the original motion to 23 dismiss filed by Defendant, and direct Plaintiff to file either an opposition or statement of non- 24 opposition to the second motion to dismiss filed by Defendant on November 5, 2025. 25 II. DISCUSSION 26 Plaintiff's Lodged First Amended Complaint Will Be Filed 27 As noted above, Plaintiff submitted a first amended complaint, presumably in response to 1 2025, motion to dismiss; the amended complaint was lodged, not filed, with the Court.

(See Doc. 2 20.) 3 Plaintiff's October 20, 2025, submission of an amended complaint is procedurally 4 deficient because it did not include a motion seeking leave to amend. Such a motion is required 5 because Defendant had already appeared in the action. See Fed. R. Civ. P. 15(a)(2) ("In all other 6 cases, a party may amend its pleading only with the opposing party's written consent or the court's 7 leave.

The court should freely give leave when justice so requires"); see also Local Rule 220. The 8 Court will nonetheless construe Plaintiff's lodged first amended complaint to include a motion for 9 leave to amend, and, to that extent, will grant the motion and direct the Clerk to file the lodged 10 complaint. 11 Defendant's Original Motion to Dismiss Will Be Terminated as Moot 12 Defendant filed a second motion to dismiss following Plaintiff's October 20, 2025, 13 submission, addressing the merits of Plaintiff's lodged amended complaint.

Accordingly, the 14 Court will terminate the original motion to dismiss, filed August 15, 2025, as moot.¹ The Court 15 will also construe Defendant's second motion as an indication that Defendant is willing to 16 proceed without the Court screening the amended complaint.² 17 Plaintiff Shall File Only an Opposition or Statement of Non-Opposition to 18 Defendant's November 5, 2025, Motion to Dismiss Within 30 Days 19 Plaintiff shall be provided 30 days from the date of service of this order within which to 20 file either an opposition or a statement of non-opposition to Defendant's motion to dismiss filed 21 November 5, 2025.

Plaintiff may not file another amended complaint in response to Defendant's 22 pending motion. 23 Pursuant to Local Rule 230(l), Defendant will have 14 days from the date Plaintiff's 24 opposition or statement of non-opposition is filed within which to file any reply. No further briefs 25 1 See, e.g., *Williams v. Jalijali*, No. 2:22-cv-00605-JDP (PC), 2023 WL 4743019, at *1, 3 (E.D.

Cal. July 26 25, 2023) (granting Plaintiff leave to amend and denying Defendant LaCroix's motion to dismiss as moot). 27 2 See *Watson v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012) (the legal standard for screening and for 12(b)(6) motions is the same).

As a result, Defendant's challenges to the claims asserted in Plaintiff's first amended complaint would be subject to the same scrutiny those claims would undergo at screening. 1 will be entertained by the Court. Once briefing has concluded and the motion is deemed 2 submitted, the undersigned will issue findings and recommendations. 3 III. CONCLUSION AND ORDER 4 Based upon the foregoing, this Court HEREBY ORDERS: 5 1.

The first amended complaint lodged with the Court on October 20, 2025, is construed 6 to be a motion for leave to amend and a proposed first amended complaint; 7 2. Plaintiff's motion for leave to amend is GRANTED; 8 3.

The Clerk of the Court is DIRECTED to file the lodged first amended complaint 9 (Doc. 20) on the docket; 10 4. The Clerk of the Court is DIRECTED to terminate Defendant's motion to dismiss 11 filed August 15, 2025 (Doc. 15) as moot; 12 5. Within 30 days of the date of service of this order, Plaintiff SHALL file either an 13 opposition or a statement of non-opposition only to Defendant's motion to dismiss 14 filed November 5, 2025 (Doc.

21). Plaintiff may not file another amended complaint 15 in response to Defendant's pending motion; and 16 6. Plaintiff is ADVISED that any failure to file either an opposition or a statement of 17 non-opposition within 30 days, as ordered above, will result in the Defendant's 18 November 5, 2025, motion being deemed unopposed. 19 IT IS SO ORDERED. 20 21 Dated: November 7, 2025 /s/ Sheila K. Oberto.

UNITED STATES MAGISTRATE JUDGE 22 23 24 25 26 27