

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Kimberly Y. Mims, et al. v. California Legislative Black Caucus, et al.

Mims v. California Legislative Black Caucus · No. 2:25-cv-02363-TLN-CSK · Decided December 9, 2025

OPINION

Kimberly Y. Mims, et al. v. California Legislative Black Caucus, et al.

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 KIMBERLY Y. MIMS, et al., Case No. 2:25-cv-02363-TLN-CSK 12 Plaintiffs,

13 v. ORDER GRANTING IFP REQUESTS AND

FINDINGS AND RECOMMENDATIONS

14 CALIFORNIA LEGISLATIVE BLACK DISMISSING COMPLAINT

CAUCUS, et al., 15 (ECF Nos. 1, 2, 3) Defendants. 16 17 Plaintiffs Kimberly Y. Mims and Darlene Crumedy are representing themselves in 18 this action and seek leave to proceed in forma pauperis (“IFP”) pursuant to 28 U.S.C. 19 § 1915.1 (ECF Nos. 2, 3.) Plaintiffs’ applications in support of their IFP requests make 20 the required financial showing. Accordingly, the Court grants Plaintiffs’ IFP requests.

21 I. SCREENING REQUIREMENT

22 Pursuant to 28 U.S.C. § 1915(e), the court must screen every in forma pauperis 23 proceeding, and must order dismissal of the case if it is “frivolous or malicious,” “fails to 24 state a claim on which relief may be granted,” or “seeks monetary relief against a 25 defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B); *Lopez v. Smith*, 26 203 F.3d 1122, 1126-27 (2000) (en banc). A claim is legally frivolous when it lacks an 27 1 This matter proceeds before the undersigned pursuant to 28 U.S.C. § 636, Fed. R. 28 Civ. P. 72, and Local Rule 302(c). 1 arguable basis either in law or in fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). In 2 reviewing a complaint under this standard, the court accepts as true the factual 3 allegations contained in the complaint, unless they are clearly baseless or fanciful, and 4 construes those allegations in the light most favorable to the plaintiff. See *Neitzke*, 490 5 U.S. at 327; *Von Saher v. Norton Simon Museum of Art at Pasadena*, 592 F.3d 954, 960 6 (9th Cir. 2010), cert. denied, 564 U.S. 1037 (2011). 7 Pleadings by self-represented litigants are liberally construed. *Hebbe v. Pliler*, 627 8 F.3d 338, 342 & n.7 (9th Cir. 2010) (liberal construction appropriate even post-*Iqbal*). 9 However, the court need not accept as true conclusory allegations, unreasonable 10 inferences, or unwarranted deductions of fact. *Western Mining Council v. Watt*, 643 F.2d 11 618, 624 (9th Cir. 1981). A

formulaic recitation of the elements of a cause of action does not suffice to state a claim. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-57 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). To state a claim on which relief may be granted, the plaintiff must allege enough facts “to state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. “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.” *Iqbal*, 556 U.S. at 678. A pro se litigant is entitled to notice of the deficiencies in the complaint and an opportunity to amend unless the complaint’s deficiencies could not be cured by amendment. See *Lopez*, 203 F.3d at 1130-31; *Cahill v. Liberty Mut. Ins. Co.*, 80 F.3d 336, 339 (9th Cir. 1996).

II. DISCUSSION

Plaintiffs bring this action against Defendants California Legislative Black Caucus (“CLBC”), Governor Gavin Newsom, Assemblymember Lori Wilson, Senator Akilah Weber-Pierson, Assemblymember Issac Bryan, Assemblymember Mia Bonta, Former Assemblymember Reggie Jones-Sawyer, Assembly Speaker Robert Rivas, and Assembly Majority Leader Cecilia Aguiar-Curry. Compl. ¶ 9 (ECF No. 1). The Complaint raises the following claims against Defendants: (1) violation of the equal protection clause of the Fourteenth Amendment pursuant to 42 U.S.C. § 1983; (2) violation of Article I § 7 of the California Constitution; (3) violation of Cal. Govt. Code § 11135; (4) violation of the First Amendment pursuant to 42 U.S.C. § 1983; (5) violation of due process under the Fourteenth Amendment pursuant to 42 U.S.C. § 1983; and (6) fraudulent misrepresentation pursuant to Cal. Civ. Code §§ 1709-1710. Id. ¶¶ 29-36. The Complaint alleges on August 31, 2024, Plaintiffs were denied entry into the California Assembly floor gallery during legislative proceedings on reparations legislation SB 1403 and SB 1331 based on limited seating, which was deliberately done to suppress public presence. Id. ¶¶ 10-12. The Complaint further alleges that Defendants obstructed the implementation of SB 1403 and SB 1331; the passing of SB 437 and SB 518 imposes a disproportionate burden on “California Freedmen” and is discriminatory; Defendants fraudulently misrepresented to the public that SB 1403 would be reintroduced for a floor vote; SB 437 and SB 518 are redundant and wasteful; and the delay or denial of reparations to “American Freedman” is discriminatory and has a disparate impact. Id. ¶¶ 10-26. Plaintiffs also seek to bring this action on behalf of a class. Id. ¶¶ 8, 27-28. A. Pro Se Plaintiffs Cannot Represent Other Individuals Plaintiffs seek to bring this action as a class action on behalf of others. Compl. ¶¶ 19, 27-28. Plaintiffs are pro se and cannot represent another individual. See Fed. R. Civ. P. 23(g) (requiring appointment of class counsel); E.D. Cal. Local Rule 183(a) (“Any individual who is representing himself or herself without an attorney must appear personally or by courtesy appearance by an attorney admitted to the Bar of this Court and may not delegate that duty to any other individual, including husband or wife, or any other party on the same side appearing without an attorney.”). Federal Rule of Civil

25 Procedure 11(a) also requires that if a party is not represented by an attorney, "[e]very
26 pleading, written motion, and other paper must be signed" by the party personally. As 27 such,
the Court will disregard any allegations referencing other individuals not listed as 28 named
Plaintiffs in the Complaint. 1 B. Absolute Immunity 2 The United States Supreme Court has long
held that legislators are "entitled to 3 absolute immunity from liability under § 1983 for their
legislative activities." Bogan v. 4 Scott-Harris, 523 U.S. 44, 49 (1998). "Under the doctrine of
legislative immunity, 5 members of Congress and state legislators are entitled to absolute
immunity from civil 6 damages for their performance of lawmaking functions." Jones v. Allison, 9
F.4th 1136, 7 1139-40 (9th Cir. 2021). Moreover, "[c]ongressional representatives enjoy immunity
for 8 comments made on the congressional floor." Lund v. Cowan, 5 F.4th 964, 972 (9th Cir. 9
2021). Plaintiffs bring claims for violations of the equal protection clause of the 10 Fourteenth
Amendment (Claim One), First Amendment (Claim Four), and of due process 11 under the
Fourteenth Amendment (Claim Five) pursuant to 42 U.S.C. § 1983 against 12 Defendants CLBC,
Assemblymember Wilson, Senator Weber-Pierson, 13 Assemblymember Bryan, Assemblymember
Bonta, Former Assemblymember Jones- 14 Sawyer, Assembly Speaker Rivas, and Assembly
Majority Leader Aguiar-Curry. Compl. 15 ¶¶ 9, 29-31, 34-35. Plaintiffs bring these claims against
these defendants in their official 16 capacities and in relation to their legislative acts on
reparations legislation. Id. ¶¶ 9-26, at 17 8-9. Absolute legislative immunity applies to all actions
taken "in the sphere of legitimate 18 legislative activity." Bogan, 523 U.S. at 54 (quoting Tenney
v. Brandhove, 341 U.S. 367, 19 376 (1951)). Here, Plaintiffs challenge the defendants'
involvement and actions taken in 20 the implementation of reparations legislation, including
actions integral to the 21 "deliberative and communicative processes by which [m]embers
participate in committee 22 and House proceedings with respect to the consideration and passage
or rejection of 23 proposed legislations[.]" Gravel v. United States, 408 U.S. 606, 625 (1972). As
such, 24 Claims One, Four and Five are barred by legislative immunity against Defendants 25
CLBC, 2 Assemblymember Wilson, Senator Weber-Pierson, Assemblymember Bryan, 26 2 Where
courts examine the underlying actions challenged to determine whether 27 legislative immunity
applies, see Bogan, 523 U.S. at 54, and the Court has not located legal authority suggesting that
legislative immunity does not apply to a group or caucus 28 of legislators such as Defendant
CLBC, the Court concludes that legislative immunity 1 Assemblymember Bonta, Former
Assemblymember Jones-Sawyer, Assembly Speaker 2 Rivas, and Assembly Majority Leader
Aguiar-Curry. 3 Furthermore, Plaintiffs also seek to impose liability pursuant to 42 U.S.C 1983 4
based on Defendant Governor Newsom's legislative actions or policymaking authority. 5 See
Compl. ¶¶ 9, 15. Claims One, Four and Five against Defendant Governor Newsom 6 are also
barred by legislative immunity. See Bogan, 523 U.S. at 54-55 ("[a]bsolute 7 legislative immunity
attaches to all actions taken in the sphere of legitimate legislative 8 activity," and "officials outside
the legislative branch are entitled to legislative immunity 9 when they perform legislative
functions.") (quotation marks omitted). Accordingly, the 10 Court recommends Claims One, Four

and Five be dismissed as barred by legislative 11 immunity. 12 C. Subject Matter Jurisdiction 13 The Court lacks subject matter jurisdiction over this action. Federal courts are 14 courts of limited jurisdiction and may hear only those cases authorized by federal law. 15 *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377 (1994). Jurisdiction is a threshold 16 inquiry, and “[f]ederal courts are presumed to lack jurisdiction, ‘unless the contrary 17 appears affirmatively from the record.’” *Casey v. Lewis*, 4 F.3d 1516, 1519 (9th Cir. 18 1993) (quoting *Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 546 (1986)); see 19 *Morongo Band of Mission Indians v. Cal. State Bd. of Equalization*, 858 F.2d 1376, 1380 20 (9th Cir. 1988). Without jurisdiction, the district court cannot decide the merits of a case 21 or order any relief and must dismiss the case. See *Morongo*, 858 F.2d at 1380. A federal 22 court’s jurisdiction may be established in one of two ways: actions arising under federal 23 law or those between citizens of different states in which the alleged damages exceed 24 \$75,000. 28 U.S.C. §§ 1331, 1332. “Subject-matter jurisdiction can never be waived or 25 forfeited,” and “courts are obligated to consider sua sponte” subject matter jurisdiction 26 even when not raised by the parties. *Gonzalez v. Thaler*, 565 U.S. 134, 141 (2012). 27 28 also applies to Defendant CLBC. 1 The Complaint does not establish the Court’s subject matter jurisdiction. See 2 Compl. The Complaint identifies federal question as the basis for federal court 3 jurisdiction. See Compl. ¶ 6. However, as discussed above, Plaintiffs’ federal claims 4 pursuant to 42 U.S.C. § 1983 against Defendants are barred pursuant to legislative 5 immunity. Moreover, the Complaint also fails to establish diversity jurisdiction. Although 6 Plaintiffs meet the amount in controversy, Plaintiffs do not establish complete diversity of 7 citizenship. On the face of the Complaint, Plaintiffs and Defendants appear to be citizens 8 of California. See Compl. ¶¶ 8-9; see also *Morris v. Princess Cruises, Inc.*, 236 F.3d 9 1061, 1067 (9th Cir. 2001) (“Section 1332 requires complete diversity of citizenship; 10 each of the plaintiffs must be a citizen of a different state than each of the defendants.”). 11 Because there is no diversity of citizenship established here, the Court finds that it also 12 lacks subject matter jurisdiction based on diversity jurisdiction. Therefore, the Court 13 recommends this action be dismissed because the Court lacks subject matter jurisdiction 14 over this action. 15 D. Supplemental Jurisdiction 16 As discussed above, Plaintiffs have failed to state a claim under federal law. 17 Accordingly, the Court should decline to exercise supplemental jurisdiction over 18 Plaintiffs’ state law claims (Claims Two, Three and Six). See 28 U.S.C. § 1367(c)(3); 19 *Campos v. Fresno Deputy Sheriff’s Ass’n*, 535 F. Supp. 3d 913, 930 (E.D. Cal. 2021); 20 *Religious Tech. Ctr. v. Wollersheim*, 971 F.2d 364, 367-68 (9th Cir. 1992). Because 21 Plaintiffs have failed to state a claim under any federal law, they have not established 22 this Court’s jurisdiction. 23 E. Leave to Amend 24 In considering whether leave to amend should be granted, the Court finds the 25 Complaint does not present a cognizable federal claim. In light of the Court’s lack of 26 subject matter jurisdiction and the Complaint’s deficiencies, granting leave to amend 27 would be futile. The Complaint should therefore be dismissed without leave to amend. 28 See *Lopez*, 203 F.3d at 1130-31; *Cato v. United States*, 70 F.3d 1103, 1105-06 (9th Cir. 1 |

1995). 2 | Ill. CONCLUSION 3 In accordance with the above, IT IS ORDERED that Plaintiffs' motions to proceed 4 | in forma pauperis (ECF Nos. 2, 3) are GRANTED; 5 Further, based upon the findings above, it is RECOMMENDED that: 6 1. Plaintiffs' Complaint (ECF No. 1) be DISMISSED without leave to amend; 7 and 8 2. The Clerk of the Court be directed to CLOSE this case. 9 These findings and recommendations are submitted to the United States District 10 | Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 11 | 14 days after being served with these findings and recommendations, any party may file 12 | written objections with the Court and serve a copy on all parties. This document should 13 | be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any 14 | reply to the objections shall be served on all parties and filed with the Court within 14 15 | days after service of the objections. Failure to file objections within the specified time 16 | may waive the right to appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449, 17 | 455 (9th Cir. 1998); *Martinez v. Yist*, 951 F.2d 1153, 1156-57 (9th Cir. 1991). 18 19 || Dated: December 9, 2025 CO i S \U

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UNITED STATES MAGISTRATE JUDGE

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