

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Kevin Cox v. Moon Gil Chun, as Trustee of the Chun Revocable
Living Trust; Does 1 to 10

No. 2:22-cv-05720 JAK (PVCx), Document 16 (C.D. Cal. Mar. 13, 2023) · No. No. 2:22-cv-05720 JAK (PVCx)
· Decided March 13, 2023

SUMMARY

The United States District Court for the Central District of California ordered Plaintiff Kevin Cox to show cause why the court should not decline supplemental jurisdiction over his California state-law claims. The order addresses California pleading and fee requirements for high-frequency Unruh Act litigants and requires Plaintiff to identify the statutory damages sought and submit a declaration concerning his high-frequency-litigant status. The order was issued without prejudice to dismissal of the state-law claims if Plaintiff failed to respond timely.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	John A. Kronstadt
JURISDICTION	United States District Court for the Central District of California
DECIDED	March 13, 2023
DOCKET	No. 2:22-cv-05720 JAK (PVCx)
DISPOSITION	other
PROCEDURAL POSTURE	On review of the complaint, the district court issued an order to show cause why it should not decline supplemental jurisdiction over the state-law claims.
STANDARD OF REVIEW	The exercise of supplemental jurisdiction is discretionary and is evaluated in light of judicial economy, convenience, fairness, and comity at every stage of the litigation.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court order

TOPICS

- subject matter jurisdiction
- civil procedure
- ada / disability
- civil rights
- damages

PRACTICE AREAS

Civil procedure

Americans with Disabilities Act

Civil rights

QUESTIONS PRESENTED

1. Whether the court should decline to exercise supplemental jurisdiction over Plaintiff's state-law claims because California's heightened pleading and high-frequency-litigant requirements could be circumvented by litigating those claims in federal court.
2. What information Plaintiff must provide for the court to determine whether he qualifies as a high-frequency litigant and whether declining supplemental jurisdiction is appropriate.

HOLDINGS

1. Supplemental jurisdiction may extend to state-law claims forming part of the same Article III case or controversy, but its exercise is discretionary rather than a matter of the plaintiff's right.
2. The court required Plaintiff to show cause why it should not decline supplemental jurisdiction over the state-law claims and required information concerning statutory damages and Plaintiff's potential status as a high-frequency litigant.

KEY QUOTATIONS

"This "is a doctrine of discretion, not of plaintiff's right." (2)

"In light of the foregoing, Plaintiff is ORDERED TO SHOW CAUSE why the Court should not decline to exercise supplemental jurisdiction over the state-law claims." (3)

FACTUAL BACKGROUND

The complaint alleged ADA, Unruh Act, and other California-law violations arising from construction-related accessibility claims. The court's docket review showed that Plaintiff had filed more than ten construction-related accessibility actions in the year preceding this action. The court also found that Plaintiff's counsel had represented at least ten individuals who appeared to be high-frequency plaintiffs in similar actions.

PROCEDURAL HISTORY

Plaintiff filed a federal action alleging violations of the Americans with Disabilities Act, the California Unruh Civil Rights Act, and other California laws. The complaint invoked supplemental jurisdiction for the state-law claims. Before resolving jurisdiction, the court ordered Plaintiff to show cause why the state-law claims should not be dismissed without prejudice under 28 U.S.C. § 1367(c).

DISPOSITION

other

CASES CITED

- *United Mine Workers v. Gibbs*, 383 U.S. 715, 726 (1966)
- *Nishimoto v. Federman-Bachrach & Assocs.*, 903 F.2d 709, 715 (9th Cir. 1990)
- *Whitaker v. RCP Belmont Shore LLC*, No. LA CV19-09561 JAK (JEMx), 2020 WL 3800449, at *6-8 (C.D. Cal. Mar. 30, 2020)
- *Garibay v. Rodriguez*, No. 2:18-cv-09187-PA (AFMx), 2019 WL 5204294, at *1-6 (C.D. Cal. Aug. 27, 2019)
- *Perri v. Thrifty Payless*, No. 2:19-CV-07829-CJC (SKx), 2019 WL 7882068, at *2 (C.D. Cal. Oct. 8, 2019)

OPINION

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7 8 UNITED STATES DISTRICT COURT 9 CENTRAL DISTRICT OF CALIFORNIA 10
KEVIN COX, No. 2:22-cv-05720 JAK (PVCx) 11 Plaintiff, ORDER TO SHOW CAUSE RE: 12
SUPPLEMENTAL JURISDICTION v. OVER STATE-LAW CLAIMS 13 MOON GIL CHUN, AS
TRUSTEE OF 14 THE CHUN REVOCABLE LIVING TRUST; DOES 1 to 10, 15 Defendants.

16 17 18 19 20 21 22 23 24 25 26 27 28 1 Case 2:22-cv-05720-JAK-PVC Document 16 Filed
03/13/23 Page 2 of 4 Page ID #:143 1 Based on a review of the Complaint (Dkt. 1), the following
determinations are 2 made: 3 The Complaint alleges violations of the Americans with Disabilities
Act, 42 4 U.S.C. §§ 12101 et seq. (the “ADA”), the Unruh Civil Rights Act (the “Unruh Act”), 5
Cal. Civ.

Code §§ 51-53, and other provisions of California law. Supplemental 6 jurisdiction is the basis for
the state-law claims. Dkt. 1 ¶ 7. 7 District courts may exercise “supplemental jurisdiction over all
other claims that 8 are so related to claims in the action within such original jurisdiction that they
form part 9 of the same case or controversy under Article III of the United States Constitution.” 28
10 U.S.C. § 1367(a).

This “is a doctrine of discretion, not of plaintiff’s right.” *United Mine 11 Workers v. Gibbs*, 383
U.S. 715, 726 (1966). “In order to decide whether to exercise 12 jurisdiction over pendent state
law claims, a district court should consider... at every 13 stage of the litigation, the values of
judicial economy, convenience, fairness, and 14 comity.” *Nishimoto v. Federman-Bachrach &
Assocs.*, 903 F.2d 709, 715 (9th Cir.

1990) 15 (citation omitted). 16 In 2012, California imposed heightened pleading requirements for
Unruh Act 17 claims. Cal. Civ. Code § 55.52(a)(1); Cal. Code Civ. Proc. § 425.50(a). In 2015, 18
California also imposed a “high-frequency litigant fee” for plaintiffs and law firms that 19 have
brought large numbers of construction-related accessibility claims.

Cal. Gov’t Code 20 70616.5. As detailed in previous orders by this Court and other district courts
in 21 California, these reforms addressed the small number of plaintiffs and counsel who bring 22
a significant percentage of construction-related accessibility claims. E.g., *Whitaker v. 23 RCP
Belmont Shore LLC*, No. LA CV19-09561 JAK (JEMx), 2020 WL 3800449, at *6- 24 8 (Mar.

