

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Akiva Israel v. Robert Salinas, et al.

Israel · No. 24-cv-08818-JD · Decided December 23, 2025

OPINION

Israel

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 AKIVA ISRAEL, Case No. 24-cv-08818-JD 8 Plaintiff,

ORDER

v. 9 Re: Dkt. Nos. 41, 42, 43, 44, 46, 47 10 ROBERT SALINAS, et al., Defendants. 11 12 13
Plaintiff, a state prisoner, filed a pro se civil rights complaint under 42 U.S.C. § 1983. The 14
Court granted and denied in part defendants’ motion to dismiss on exhaustion grounds. Several 15
defendants were dismissed, and the remaining defendants were ordered to file a dispositive motion
16 in 90 days. Plaintiff has also filed several motions to appoint counsel and to modify the
discovery 17 schedule. Defendants filed a motion to compel plaintiff to attend and meaningfully
participate in 18 her deposition, following three unsuccessful attempts to depose her. 19
Appointment of Counsel 20 Plaintiff requests the appointment of counsel for the limited purpose
of representing her at 21 the deposition. The Ninth Circuit has held that a district court may ask
counsel to represent an 22 indigent litigant only in “exceptional circumstances,” the determination
of which requires an 23 evaluation of both (1) the likelihood of success on the merits, and (2) the
ability of the plaintiff to 24 articulate his claims pro se in light of the complexity of the legal
issues involved. Terrell v. 25 Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991). Plaintiff has
competently presented her claims, 26 successfully opposed a motion to dismiss, and sought
discovery from defendants. Plaintiff has 27 also competently litigated another case in this Court.
The issues at the deposition are not complex 1 Defendants note that plaintiff was deposed in two
other federal civil rights cases since August 2 2025, ably defending herself and objecting multiple
times. Dkt. No. 45, Exs. H, I. The request for 3 appointed counsel is denied. 4 Motion to Compel
Deposition 5 Defendants say that they have unsuccessfully attempted to depose plaintiff on three 6
separate occasions. On the first attempt, plaintiff said she was ill. Dkt. No. 46 at 3. The 7
deposition was rescheduled the following week. Id. On the second attempt, plaintiff again said 8
she was ill. Id. The deposition was rescheduled for the following week where plaintiff refused to 9
participate without her own counsel, stating that she believed the deposition was, “being 10

conducted in bad faith or that was done in manner that unreasonably caused oppression, noise, and
11 embarrassment. . . . ” Id. Ex. F at 6. Defendants note that in another case in this Court,
plaintiff’s 12 deposition in June 2025, had to be rescheduled due to plaintiff’s mental state. Israel
v. Tomlinson, 13 Case No. 24-cv-3718 JD, Dkt. No. 39-1 at ¶ 12. Defendants note that during the
times when 14 plaintiff stated she was too sick to be deposed, she was completing numerous
motions in other 15 cases in this District and the Eastern District. Dkt. No. 46 at 5. 16 The motion
to compel is granted. Plaintiff is advised that defendants are entitled to 17 examine her under oath
about her claims and allegations. Defendants may schedule a deposition. 18 The Court expects
plaintiff to sit for the deposition and answer defendants’ questions as required 19 under the
Federal Rules of Civil Procedure. If plaintiff does not do that, the Court will impose an 20
appropriate sanction. Sanctions may take the form of issue or claim preclusion, evidentiary 21
preclusion, or outright dismissal of the case. 22 For the foregoing reasons: 23 1. The motions to
appoint counsel (Dkt. Nos. 41, 42, 47) are denied. 24 2. Plaintiff’s motions to continue discovery
(Dkt. No. 43, 44) are granted and she may 25 continue seeking discovery from defendants. 26 3.
Defendants’ motion to compel plaintiff’s deposition (Dkt. No. 46) is granted. The 27 parties are
directed to set a date for the deposition within 45 days of this order. If plaintiff does 1 that could
include outright dismissal of the case. 2 4. Plaintiff was previously instructed to provide more
information to effectuate 3 service on defendant Freeman. Dkt. No. 40. The time to provide
additional information has 4 || passed and plaintiff has not addressed the issue. Defendant Freeman
is dismissed without 5 || prejudice for failure to serve pursuant to Federal Rule of Civil Procedure
4(m). 6 IT IS SO ORDERED. 7 Dated: December 23, 2025 8 9

JAMES TO

10 United Stes District Judge 11 12 13 15 16 17 Z 18 19 20 21 22 23 24 25 26 27 28