UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

Devon Keith Webb v. UShip, GoDaddy, et al.

No. 2:25-cv-2043 DJC AC PS · No. No. 2:25-cv-2043 DJC AC PS · Decided September 23, 2025

SUMMARY

The United States District Court for the Eastern District of California grants Devon Keith Webb's motion to proceed in forma pauperis but declines to serve the complaint. The court concludes that Webb lacks standing to assert claims belonging to ACSD Deliveries, LLC, is not the real party in interest, and cannot represent the LLC without licensed counsel. The court also finds the pleaded claims insufficiently stated but permits amendment within 30 days, either through counsel on behalf of the LLC or pro se on claims involving Webb's own injuries.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Allison Claire
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	September 23, 2025
DOCKET	No. 2:25-cv-2043 DJC AC PS
DISPOSITION	other
PROCEDURAL POSTURE	Initial screening of a pro se complaint filed with a motion to proceed in forma pauperis under 28 U.S.C. § 1915. The magistrate judge granted in forma pauperis status, declined to authorize service, and allowed plaintiff 30 days to amend or obtain counsel for the LLC.
STANDARD OF REVIEW	Screening under 28 U.S.C. § 1915(e)(2), accepting factual allegations as true unless clearly baseless or fanciful, construing them in the light most favorable to the plaintiff, resolving doubts in the plaintiff's favor, and applying the Rule 12(b)(6) plausibility standard while giving pro se pleadings a less stringent construction.
PRECEDENTIAL VALUE	Unknown
PARTIES	Devon Keith Webb v. UShip, GoDaddy, et al.

TOPICS

standing | limited liability companies | pleadings | civil procedure | commercial litigation

PRACTICE AREAS

civil procedure | business associations | commercial litigation | torts

QUESTIONS PRESENTED

1. Whether Webb had Article III standing to assert injuries allegedly suffered by ACSD Deliveries, LLC.
2. Whether Webb was the real party in interest under Federal Rule of Civil Procedure 17(a).
3. Whether Webb could represent ACSD Deliveries, LLC without licensed counsel.
4. Whether the complaint stated plausible claims for business identity misappropriation, unfair competition under California Business and Professions Code section 17200, negligence, and intentional interference with prospective economic advantage.
5. Whether Webb should be granted leave to amend or obtain counsel before dismissal.

HOLDINGS

1. A member or owner of an LLC does not have standing to assert claims in his individual name for injuries allegedly suffered by the LLC, even if he is the LLC's owner or sole shareholder.
2. The entity that legally holds claims arising from injury to the LLC, rather than the individual member, is the real party in interest.
3. A nonlawyer individual may not represent an LLC in federal court pro se; the LLC must appear through licensed counsel.
4. The complaint failed to state plausible claims for business identity misappropriation, unfair competition under California Business and Professions Code section 17200, negligence, and intentional interference with prospective economic advantage.

KEY QUOTATIONS

> *"Generally, a shareholder does not have standing to redress an injury to the corporation."* (at 3)

> *"The right to represent oneself pro se is personal to the plaintiff as an individual and does not extend to other parties."* (at 4)

> *"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."* (at 5)

> *"However, the court declines to serve plaintiff's complaint at this time. Plaintiff may file an amended complaint within 30 days of this order."* (at 7)

FACTUAL BACKGROUND

Webb alleged that he owned ACSD Deliveries, LLC, a California shipping and logistics business. He claimed that UShip's online marketplace was attached to ACSD's site and diverted business, that UShip-issued bills of lading misrepresented ACSD's address, and that UShip's registration process caused double bookings and unauthorized shipments. He also alleged that GoDaddy changed the primary language of ACSD's website to Spanish without authorization. The alleged losses and operational harms were asserted as injuries to ACSD rather than to Webb personally.

PROCEDURAL HISTORY

Webb filed a complaint in his individual name alleging business-related injuries to ACSD Deliveries, LLC, and moved to proceed in forma pauperis. The matter was referred to Magistrate Judge Allison Claire. After screening the complaint under 28 U.S.C. § 1915(e)(2), the court concluded that Webb lacked standing to assert the LLC's injuries, was not the real party in interest, could not represent the LLC pro se, and had not adequately pleaded his asserted causes of action. The court granted IFP status, declined to serve the complaint, and granted leave to amend within 30 days.

DISPOSITION

other

CASES CITED

- Neitzke v. Williams, 490 U.S. 319, 325, 327 (1989)
- Von Saher v. Norton Simon Museum of Art at Pasadena, 592 F.3d 954, 960 (9th Cir. 2010), cert. denied, 564 U.S. 1037 (2011)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- Scheuer v. Rhodes, 416 U.S. 232, 236 (1974)
- Haines v. Kerner, 404 U.S. 519, 520 (1972)
- Western Mining Council v. Watt, 643 F.2d 618, 624 (9th Cir. 1981)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-57, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Noll v. Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987), superseded on other grounds by statute as stated in Lopez v. Smith, 203 F.3d 1122 (9th Cir. 2000) (en banc)
- Shulman v. Kaplan, 58 F.4th 404, 407 (9th Cir. 2023)
- Steel Co. v. Citizens for a Better Environment, 523 U.S. 83, 102 (1998)
- Shell Petroleum, N.V. v. Graves, 709 F.2d 593, 595 (9th Cir. 1983)
- CF Gainesville Investor, LLC v. Astronergy Solar Inc., No. 2:21-cv-02654-CAS-RAOx, 2022 U.S. Dist. LEXIS 20520, 2022 WL 1422810, at *4 (C.D. Cal. Jan. 10, 2022)
- Sinclair v. Fox Hollow of Turlock Owners Association, No. 1:03-cv-05439-OWW, 2011 U.S. Dist. LEXIS 63250, 2011 WL 2433289, at *4 (E.D. Cal. June 13, 2011)
- Kenney v. Wells Fargo Bank, N.A., No. 2:25-CV-04845-WLH-PD, 2025 WL 2117410, at *2, 2025 U.S. Dist. LEXIS 145739 (C.D. Cal. July 18, 2025)
- Simon v. Hartford Life, Inc., 546 F.3d 661, 664 (9th Cir. 2008)
- Russell v. United States, 308 F.2d 78, 79 (9th Cir. 1962)

- Rowland v. California Men's Colony, Unit II Men's Advisory Council, 506 U.S. 194, 201-02 (1993)
- United States v. High Country Broadcasting Co., Inc., 3 F.3d 1244, 1245 (9th Cir. 1993)
- In re Bigelow, 179 F.3d 1164, 1165 (9th Cir. 1999)
- People v. Casa Blanca Convalescent Homes, Inc., 159 Cal. App. 3d 509, 530 (1984)
- Cel-Tech Communications, Inc. v. Los Angeles Cellular Telephone Co., 20 Cal. 4th 163, 186-87 & n.12 (1999)
- Megargee v. Wittman, 550 F. Supp. 2d 1190, 1209 (E.D. Cal. 2008)
- Roy Allan Slurry Seal, Inc. v. American Asphalt South, Inc., 2 Cal. 5th 505, 512 (2017)
- McHenry v. Renne, 84 F.3d 1172, 1177, 1179-80 (9th Cir. 1996)
- Pacific Bell Telephone Co. v. Linkline Communications, Inc., 555 U.S. 438, 456 n.4 (2009)

OPINION

UShip
PER CURIAM.
1 2 3 4 5 6 7
8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10
11 DEVON KEITH WEBB, No. 2:25-cv-2043 DJC AC PS

12 Plaintiff, 13 v. ORDER 14 USHIP, GODADDY, et al., 15 Defendants. 16 17 Plaintiff is proceeding in this action pro se. This matter was accordingly referred to the 18 undersigned by E.D. Cal. 302(c)(21). Plaintiff has filed a request for leave to proceed in forma 19 pauperis ("IFP") and has submitted the affidavit required by that statute. See 28 U.S.C. 20 § 1915(a)(1). The motion to proceed IFP (ECF No. 2) will therefore be granted. However, the 21 complaint cannot be served at this time because plaintiff does not have standing, is not the real 22 party in interest, and cannot represent a business entity in pro se. 23 I. Screening 24 A. Legal Standard 25 The federal IFP statute requires federal courts to dismiss a case if the action is legally 26 "frivolous or malicious," fails to state a claim upon which relief may be granted or seeks 27 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). A 28 claim is legally frivolous when it lacks an arguable basis either in law or in fact. Neitzke v. 1 Williams, 490 U.S. 319, 325 (1989). In reviewing a complaint under this standard, the court will 2 (1) accept as true all of the factual allegations contained in the complaint, unless they are clearly 3 baseless or fanciful, (2) construe those allegations in the light most favorable to the plaintiff, and 4 (3) resolve all doubts in the plaintiff's favor. See Neitzke, 490 U.S. at 327; Von Saher v. Norton 5 Simon Museum of Art at Pasadena, 592 F.3d 954, 960 (9th Cir. 2010), cert. denied, 564 U.S. 6 1037 (2011). 7 The court applies the same rules of construction in determining whether the complaint 8 states a claim on which relief can be granted. Erickson v. Pardus, 551 U.S. 89, 94 (2007) (court 9 must accept the allegations as true); Scheuer v. Rhodes, 416 U.S. 232, 236 (1974) (court must 10 construe the

complaint in the light most favorable to the plaintiff). Pro se pleadings are held to a less stringent standard than those drafted by lawyers. Haines v. Kerner, 404 U.S. 519, 520 (1972). However, the court need not accept as true conclusory allegations, unreasonable inferences, or unwarranted deductions of fact. Western Mining Council v. Watt, 643 F.2d 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 Noll v. Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987), superseded on other grounds by statute as stated in Lopez v. Smith, 203 F.3d 1122 (9th Cir.2000)) (en banc).

B. The Complaint

Plaintiff brings this action in his own name, stating that he is the owner of ACSD Deliveries, LLC, a company engaged in shipping and logistics within California. ECF No. 1 at 2. Defendant Uship is an online shipping marketplace. Plaintiff alleges that Uship unlawfully "attached its site" to ACSD Deliveries, causing a diversion of business. Id. Defendant GoDaddy provides website services and hosts ACSD Deliveries' website. Id. GoDaddy changed the primary language on ACSD Deliveries' website to Spanish without authorization, impacting business operations. Id. Plaintiff further alleges that he has discovered billing errors on Bills of Landing issued by Uship that misrepresent ACSD's address, despite confirmation from the California Highway Patrol that ACSD's business address has not been changed. Id. Additionally, Uship's lax registration process has resulted in double bookings and unauthorized shipments, leading plaintiff's business to incur financial losses. Id. Plaintiff sues defendants for Business Identity Misappropriation, Fraudulent Business Practices, Negligence, and Interference with Prospective Economic Advantage. Id.

C. Analysis

The complaint must be dismissed because it is clear from the pleadings that plaintiff lacks standing, is not the real party in interest, and cannot bring this case as a pro se litigant. Further, the complaint as drafted does not state a claim for relief.

1. Standing and Related Matters

First, although plaintiff names himself individually as the plaintiff, all of the allegations in the complaint relate to actions defendants took with respect to the corporate entity ACSD Deliveries, LLC. Whether "a party has standing to sue under Article III is a threshold issue that must be addressed before turning to the merits of a case." Shulman v. Kaplan, 58 F.4th 404, 407 (9th Cir. 2023). At the pleading stage, a plaintiff must establish standing by showing "(1) an injury in fact that is concrete and particularized and actual or imminent, (2) a causal connection between the injury and the defendant's conduct, and (3) a likelihood that the injury will be redressed by a favorable decision." Steel Co. v. Citizens for a Better Env't, 523 U.S. 83, 102 (1998). "Generally, a shareholder does not have standing to redress an injury to the corporation." Shell Petroleum, N.V v. Graves, 709 F.2d 593, 595 (9th Cir. 1983); see also CF Gainesville Inv'r, LLC v. Astronergy Solar Inc., No. 2:21-cv-02654-CAS-RAOx, 2022 U.S. Dist. LEXIS 20520, 2022 WL 1422810, at *4 (C.D. Cal. Jan. 10, 2022) (dismissing claims for lack of Article III standing where sole member of LLC sought to recover for injuries suffered by subsidiaries, emphasizing that LLC members lack standing to assert individual claims based on harm to the entity).

Plaintiff's complaint states that his company, a limited liability corporation ("LLC"), sustained losses due to defendants' actions taken in relation to the LLC's website and business activities. It is clear from the facts alleged that "the gravamen of the complaint is injury to an LLC's property, [and accordingly,] the right of action lies with the LLC, not the individual [plaintiff]." Sinclair v. Fox Hollow of Turlock Owners Ass'n, No. 1:03-cv-05439-OWW, 2011 U.S. Dist. LEXIS 63250, 2011 WL 2433289, at *4 (E.D. Cal. June 13, 2011). Further, all of the alleged facts have to do with interactions between defendants and ACSD. Because each interaction and injury alleged belongs to ACSD Deliveries, LLC, plaintiff does not have standing to bring this action in his own name, even if he is the owner or sole shareholder of the business.

Second, the Federal Rules of Civil Procedure require that a complaint be brought and signed by the "real party in interest," meaning the person who actually holds the claims in question. Fed. R. Civ. P. 17(a)(1). "Even if a plaintiff purports to be injured by fraud or misconduct, they may not pursue claims that legally belong to a separate entity, including an LLC." Kenney v. Wells Fargo Bank, N.A., No. 2:25-CV-04845-WLH-PD, 2025 WL 2117410, at *2, 2025 U.S. Dist. LEXIS 145739 (C.D. Cal. July 18, 2025). The court notes that it "may not dismiss an action for failure to prosecute in the name of the real party in interest until, after an objection, a reasonable time has been allowed for the real party in interest to ratify, join, or be substituted into the action." Fed. R. Civ. P. 17(a)(3).

Third, plaintiff cannot represent ACSD Deliveries, LLC; he must obtain a lawyer to do so. The right to represent oneself pro se is personal to the plaintiff as an individual and does not extend to other parties. Simon v. Hartford Life, Inc., 546 F.3d 661, 664 (9th Cir. 2008); see also Russell v. United States, 308 F.2d 78, 79 (9th Cir. 1962) ("A litigant appearing in propria persona has no authority to represent anyone other than himself."). Unlicensed laypersons, including the owners of companies, officers of a corporation, partners of a partnership, and members of an association may not represent their entities in pro se. Rowland v. Cal. Men's Colony, Unit II Men's Advisory Council, 506 U.S. 194, 201–02 (1993) ("It has been the law for the better part of two centuries . . . that a corporation may appear in the federal courts only through licensed counsel . . . [T]hat rule applies equally to all artificial entities."); United States v. High Country Broadcasting Co., Inc., 3 F.3d 1244, 1245 (9th Cir. 1993). In this regard, "the law is clear that a corporation can be represented only by a licensed attorney." In re Bigelow, 179 F.3d 1164, 1165 (9th Cir. 1999). Accordingly, plaintiff cannot proceed with this case on ACSD Deliveries' behalf.

2. Failure to State a Claim

In addition to the reasons outlined above, the complaint must be dismissed because it fails to state a claim upon which relief can be granted. Plaintiff's first cause of action for "Business Identity Misappropriation" does not identify any statutory or common law basis, and the court is not aware of one. Accordingly, plaintiff cannot proceed with this cause of action

The second cause of action, "Fraudulent Business Practices" is based on California Business and Professions Code § 17200, which states that "unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice...." Cal. Bus. & Prof. Code § 17200. An unfair business practice is one that either "offends an established public policy" or is "immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers." People v. Casa Blanca Convalescent Homes, Inc., 159 Cal.App.3d 509, 530 (1984), abrogated on other grounds Cel–Tech Commc'ns, Inc. v. Los Angeles Cellular Tel. Co., 20 Cal.4th 163, 186–87 & n. 12 (1999). Plaintiff states under this cause of action that defendants "engaged in deceptive trade practices by misrepresenting Plaintiff's company details and interfering with its operations." ECF No. 1 at 2. It is unclear, without more detail, that the relevant facts (Uship misrepresented ACSD Deliveries' address, and subjected it to double bookings and unauthorized shipments) can state a claim against Uship, and there are no relevant facts alleged against GoDaddy. The facts are insufficient to state a claim upon which relief can be granted.

The third cause of action is negligence. "The elements of a negligence cause of action are: (1) a legal duty to use due care; (2) a breach of such legal duty; (3) the breach was the proximate or legal cause of the resulting injury; and (4) actual loss or damage resulting from the breach of the duty of care." Megargee v. Wittman, 550 F.Supp.2d 1190, 1209 (E.D.Cal. 2008). Plaintiff alleges only that defendants "[n]egligently failed to maintain accurate records, leading to financial losses and reputational harm." ECF No. 1 at 2. This information, without more, does not state a viable negligence claim. The complaint lacks factual allegations that establish the existence of a legal duty, breach of that duty, and causation of actual injury, and therefore fails to state a claim.

Finally, plaintiff sues for intentional interference with a prospective economic advantage. ECF No. 1 at 2. "Intentional interference with prospective economic advantage has five elements: (1) the existence, between the plaintiff and some third party, of an economic relationship that contains the probability of future economic benefit to the plaintiff; (2) the defendant's knowledge of the relationship; (3) intentionally wrongful acts designed to disrupt the relationship; (4) actual disruption of the relationship; and (5) economic harm proximately caused by the defendant's action. Roy Allan Slurry Seal, Inc. v. American Asphalt South, Inc., 2 Cal. 5th 505, 512 (2017). Plaintiff asserts in conclusory fashion that defendants committed this tort by redirecting ACSD's customers and altering business information. ECF No. 1 a 2. The alleged facts do not address the elements of knowledge or intent. Accordingly, the complaint as drafted does not state a claim for international interference with a prospective economic advantage.

D. Leave to Amend and Obtain Counsel

Rather than immediately recommending that this case be dismissed, the court will give plaintiff an opportunity to obtain counsel and amend the complaint. Any amended complaint 20 asserting claims on behalf of ACSD must be filed by counsel. 21 Should plaintiff believe that he has related claims arising from injury to his own legal 22 rights as an individual rather than those of the LLC, he may file an amended pro se complaint. A 23 pro se amended complaint may not include causes of action arising from injuries to the entity. It 24 must contain a short and plain statement of plaintiff's claims. The allegations of the complaint 25 must be set forth in sequentially numbered paragraphs, with each paragraph number being one 26 greater than the one before, each paragraph having its own number, and no paragraph number 27 being repeated anywhere in the complaint. Each paragraph should be limited "to a single set of 28 circumstances" where possible. Rule 10(b). Forms are available to help plaintiffs organize their 1 complaint in the proper way. They are available at the Clerk's Office, 501 I Street, 4th Floor 2 (Rm. 4 200), Sacramento, CA 95814, or online at www.uscourts.gov/forms/pro-se-forms. 3 Plaintiff must avoid excessive repetition of the same allegations. Plaintiff must avoid 4 narrative and storytelling. That is, the complaint should not include every detail of what 5 happened, nor recount the details of conversations (unless necessary to establish the claim), nor 6 give a running account of plaintiff's hopes and thoughts. Rather, the amended complaint should 7 contain only those facts needed to show how the defendant legally wronged the plaintiff. 8 The amended complaint must not force the court and the defendants to guess at what is 9 being alleged against whom. See McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996) 10 (affirming dismissal of a complaint where the district court was "literally guessing as to what 11 facts support the legal claims being asserted against certain defendants"). The amended 12 complaint must not require the court to spend its time "preparing the 'short and plain statement' 13 which Rule 8 obligated plaintiffs to submit." Id. at 1180. The amended complaint must not 14 require the court and defendants to prepare lengthy outlines "to determine who is being sued for 15 what." Id. at 1179. 16 Also, the amended complaint must not refer to a prior pleading or a separate motion to 17 make plaintiff's amended complaint complete. Any amended complaint must be complete 18 without reference to any prior pleading. Local Rule 220. This is because, as a general rule, an 19 amended complaint supersedes the original complaint. See Pacific Bell Tel. Co. v. Linkline 20 Communications, Inc., 555 U.S. 438, 456 n.4 (2009) ("[n]ormally, an amended complaint 21 supersedes the original complaint") (citing 6 C. Wright & A. Miller, Federal Practice & 22 Procedure § 1476, pp. 556 57 (2d ed. 1990)). Therefore, in an amended complaint, as in an 23 original complaint, each claim and the involvement of each defendant must be sufficiently 24 alleged. 25 II. Pro Se Plaintiff's Summary 26 You are being granted in forma pauperis status and do not have to pay the filing fee. 27 However, your complaint has serious problems that need to be fixed in order for this case to 28 proceed. Most importantly, you are not the correct plaintiff for the claims you have presented. 1 | Only ACSD Deliveries, LLC, can bring a lawsuit alleging injuries to the business, and only a 2 || lawyer can file that lawsuit. If you cannot find an attorney to take this case, the undersigned will 3 || recommend that the case be dismissed because a pro se plaintiff cannot bring claims that belong 4 | toa business entity. You have 30 days to have a lawyer file an amended complaint on behalf of the LLC. In the alternative, you may within the 30 day period file a pro se amended complaint asserting only claims involving injury to yourself rather than to your LLC. It is not clear to the court that any such claims exist given the nature of the business disptue, but you will have the opportunity to file a pro se amended complaint if you think you have claims that are distinct from the claims of the LLC. If you do not submit an amended complaint by the deadline, the undersigned will recommend that the case be dismissed for failure to prosecute. Il. Conclusion The court ORDERS that the motion to proceed IFP (ECF No. 2) is GRANTED. However, the court declines to serve plaintiff's complaint at this time. Plaintiff may file an amended complaint within 30 days of this order.

DATED: September 22, 2025 * Ig ththienr—Chnp—e_

ALLISON CLAIRE

UNITED STATES MAGISTRATE JUDGE