

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

David D. Crossett v. Lakeview Hospital, et al.

Crossett · No. 1:25-CV-61-DAK-CMR · Decided February 12, 2026

SUMMARY

The United States District Court for the District of Utah affirmed and adopted a magistrate judge’s Report and Recommendation concerning David D. Crossett’s claims against Lakeview Hospital and individual defendants. The court clarified that Plaintiff may amend his Title III Americans with Disabilities Act claim only to seek injunctive relief, not monetary damages, and allowed the opportunity to provide additional factual support. The court granted in part and denied in part Lakeview Hospital’s motion to dismiss and gave Plaintiff thirty days to file an amended complaint.

CASE DETAILS

COURT	United States District Court for the District of Utah
WRITING FOR THE COURT	Dale A. Kimball
JURISDICTION	United States District Court for the District of Utah
DECIDED	February 12, 2026
DOCKET	1:25-CV-61-DAK-CMR
DISPOSITION	affirmed
PROCEDURAL POSTURE	The district court conducted de novo review of a magistrate judge's Report and Recommendation concerning a motion to dismiss and an order granting a motion to quash service.
STANDARD OF REVIEW	De novo review of the magistrate judge's Report and Recommendation under 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).
PRECEDENTIAL VALUE	Unknown

TOPICS

- motions to dismiss
- ada / disability
- injunctions
- damages
- civil procedure

PRACTICE AREAS

- Civil procedure
- Americans with Disabilities Act

QUESTIONS PRESENTED

1. Whether Plaintiff could amend his Title III ADA complaint to seek monetary damages.
2. Whether Plaintiff should be allowed to amend his Title III ADA complaint to pursue injunctive relief despite concerns about ongoing harm, future harm, and the sufficiency of his disability allegations.
3. Whether Plaintiff could re-serve the individual defendants with an amended complaint despite the asserted futility of claims against individual employees.
4. Whether the magistrate judge's Report and Recommendation and order granting the motion to quash should be affirmed.

HOLDINGS

1. Plaintiff may not amend the Title III ADA claim to seek monetary damages because such damages are unavailable as a matter of law under Title III.
2. Plaintiff may amend the Title III ADA claim to seek injunctive relief, and dismissal of that claim is without prejudice.
3. Plaintiff may re-serve the individual defendants with an amended complaint, but any claims against them remain subject to dismissal if they are not legally liable under the ADA.
4. The magistrate judge's order granting the motion to quash was within her authority and did not require affirmance by the district court.

KEY QUOTATIONS

“The court clarifies that the requested monetary damages are not available as a matter of law and cannot be a part of the Amended Complaint.” (Conclusion)

“The court affirms and adopts Magistrate Judge Romero’s January 21, 2026 Report and Recommendation [ECF No. 26].” (Conclusion)

FACTUAL BACKGROUND

Plaintiff asserted claims under Title III of the Americans with Disabilities Act against Lakeview Hospital and individual defendants. The district court described the alleged disability as a visual impairment and noted that Plaintiff had not alleged that he remained a patient at Lakeview or faced a colorable threat of future harm. The court also noted that the complaint sought monetary relief as well as injunctive relief.

PROCEDURAL HISTORY

The case was referred to Magistrate Judge Cecilia M. Romero under 28 U.S.C. § 636(b)(1)(B). The magistrate judge recommended granting Lakeview Hospital's motion to dismiss, ordered that the individual defendants' motion to quash be granted, and allowed Plaintiff thirty days to file an amended complaint and re-serve the individual defendants. Lakeview objected to allowing amendment of the Title III ADA claims without prejudice, while Plaintiff filed no objection. The district court affirmed and adopted the Report and Recommendation, clarified that amendment could not seek monetary damages, and affirmed the recommendation allowing amendment for injunctive relief.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

Plaintiff has thirty days from February 12, 2026, to file an amended complaint consistent with the Report and Recommendation and the district court's order. Any amended complaint must limit the Title III ADA claim to injunctive relief and may not seek monetary damages. Plaintiff may re-serve the individual defendants with the amended complaint.

CASES CITED

- Brinkman v. Hobble Creek Half Marathon, No. 2:05-CV-9 PGC, 2005 WL 53353, at *2 (D. Utah Aug. 3, 2005)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
MEMORANDUM DECISION AND ORDER AFFIRMING AND DAVID D CROSSETT,
CLARIFYING MAGISTRATE JUDGE'S REPORT AND Plaintiff, RECOMMENDATION v.
Case No. 1:25-CV-61-DAK-CMR LAKEVIEW HOSPITAL, et al., Judge Dale A. Kimball
Magistrate Judge Cecilia M. Romero Defendants. This case was assigned to United States District
Court Judge Dale A. Kimball, who then referred the case to United States Magistrate Judge Cecilia
M. Romero under 28 U.S.C. § 636(b)(1)(B).

On January 21, 2026, Magistrate Judge Romero issued a Report and Recommendation [ECF No. 26], recommending that Defendant Lakeview Hospital's Motion to Dismiss [ECF No. 14] be granted, and ordering that the Individual Defendants' Motion to Quash be granted. Magistrate Judge Romero gave Plaintiff 30 days to file an Amended Complaint and allowed him to re-serve the Individual Defendants with any such Amended Complaint.

The Report and Recommendation notified the parties that any objection to the Report and Recommendation must be filed within fourteen days of receiving it. Defendants filed an Objection to the Report and Recommendation, but Plaintiff did not. DISCUSSION A Magistrate Judge's Report and Recommendation is subject to de novo review by this court. See 28 U.S.C. § 636(b)(1)(B); see also Fed.

R. Civ. P. 72(b). The court has reviewed the Report and Recommendation and the record de novo along with Defendant Lakeview's objection. Lakeview objects to the Report and Recommendation's recommendation that the ADA claims against it be dismissed without prejudice instead of with prejudice. Lakeview first points out that Plaintiff cannot amend his Complaint as to monetary damages because Title III of the Americans with Disabilities Act does not allow a private cause of action for damages.

The Report and Recommendation agrees with that argument and states that Plaintiff can only have a claim for injunctive relief under a Title III claim. While the conclusion broadly allows Plaintiff to amend his Complaint, the court clarifies that it is not allowing him to amend as to monetary damages. Plaintiff may only amend for injunctive relief under Title III.

Lakeview next argues that it would be futile to allow Plaintiff to amend his Complaint for injunctive relief because the ADA Title III requires some ongoing harm or, at least, a colorable threat of future harm, and Plaintiff has not alleged that he is still a patient at Lakeview or there is a colorable threat of future harm. *Brinkman v. Hobble Creek Half Marathon*, No. 2:05-CV- 9PGC, 2005 WL 53353, *2 (D.

Utah Aug. 3, 2005). Lakeview also argues that Plaintiff's allegations as to his disability are insufficient to such a degree that any amendment to his Complaint would be futile. The court agrees that it is difficult to foresee how Plaintiff could amend to explain how a visual impairment relates to being able to hear, process, and remember audible information.

But Magistrate Romero's order is merely allowing Plaintiff to see what the law is and add any factual support he has that may relate to the requirements needed for such a claim. These are not issues, like the issue with monetary damages above, where there are no set of facts that could sustain a cause of action.

In addition, Lakeview argues that it would be futile to allow Plaintiff to serve the individual defendants with an Amended Complaint because individual employees are not subject to liability under the ADA unless the defendant owns, leases, or operates the place of public accommodation. While the court agrees that is a correct statement of the law, this issue was never raised before Magistrate Judge Romero.

The individual defendants moved only to quash service, which was granted. They did not bring a motion to dismiss that was a part of the Report and Recommendation. If Plaintiff continues to name the individual defendants in an Amended Complaint, he will need to serve them properly and the claims will be subject to dismissal at that time. **CONCLUSION** The court clarifies that the requested monetary damages are not available as a matter of law and cannot be a part of the Amended Complaint.

But the requested monetary relief is only part of the Title III claim. The court affirms Magistrate Judge Romero's recommendation to allow Plaintiff to amend as to Title III injunctive relief. Magistrate Judge Romero's Order on the Motion to Quash is an Order within her authority to grant and does not need to be affirmed by this court.

Accordingly, the court affirms and adopts Magistrate Judge Romero's January 21, 2026 Report and Recommendation [ECF No. 26]. Defendant's Motion to Dismiss [ECF No. 14] is **GRANTED IN PART** with respect to dismissal of the claims **AND DENIED IN PART** to the extent that the

Title III injunction claim is dismissed without prejudice. Plaintiff has thirty (30) days from the date of this Order to file an Amended Complaint consistent with the Report and Recommendation and this Order.

DATED this 12th day of February 2026. BY THE COURT: “LDL G. q Yeed DALE A. KIMBALL
United States District Judge