

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Cesar Acevedo v. Hokis, LLC

Acevedo v. Hokis · No. 2:25-cv-02339-SVW-BFM · Decided March 19, 2025

SUMMARY

The United States District Court for the Central District of California ordered the parties to submit a joint status report addressing alleged ADA barriers, remedial measures, and anticipated summary judgment motions. The court also ordered the plaintiff to show cause why it should exercise supplemental jurisdiction over state-law claims, identify the statutory damages sought, and provide declarations addressing high-frequency litigant status.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Stephen V. Wilson
JURISDICTION	United States District Court for the Central District of California
DECIDED	March 19, 2025
DOCKET	2:25-cv-02339-SVW-BFM
DISPOSITION	other
PROCEDURAL POSTURE	The district court issued an order to show cause and ordered the parties to submit a joint status report in an action asserting claims under the Americans with Disabilities Act and related state-law claims.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Cesar Acevedo v. Hokis, LLC

TOPICS

- subject matter jurisdiction
- civil procedure
- ada / disability
- public accommodations discrimination
- attorney fees

PRACTICE AREAS

- Civil procedure
- Americans with Disabilities Act
- Supplemental jurisdiction
- Attorney's fees

QUESTIONS PRESENTED

1. Whether defendant's removal or remediation of alleged ADA barriers, together with a showing that the barriers are not reasonably expected to recur, could moot plaintiff's ADA claim.
2. Whether the court should exercise supplemental jurisdiction over plaintiff's Unruh Act and other state-law claims if the federal ADA claim becomes moot.
3. Whether plaintiff and counsel must provide information sufficient for the court to determine whether they qualify as high-frequency litigants under California law.

HOLDINGS

1. The court ordered defendant to describe measures taken to investigate or remedy the alleged ADA barriers, required plaintiff to state his position regarding those measures, and ordered plaintiff to show cause why the court should exercise supplemental jurisdiction over the state-law claims.
2. The order states that nominal damages are not available under Title II of the ADA, so pleading nominal damages does not prevent dismissal of an otherwise moot ADA claim.
3. The order states that a plaintiff is not entitled to attorney's fees when the ADA claim is rendered moot and dismissed before trial.

KEY QUOTATIONS

"a defendant's voluntary removal of alleged barriers prior to trial can have the effect of mooting a plaintiff's ADA claim."

"The Court therefore further ORDERS Plaintiff to show cause in writing why the Court should exercise supplemental jurisdiction over the Unruh Act claim and any other state law claim asserted in the Complaint."

FACTUAL BACKGROUND

Plaintiff asserted an ADA claim based on alleged access barriers and also invoked supplemental jurisdiction over state-law claims, including an Unruh Act claim. The court contemplated that defendant might have investigated or remedied the alleged barriers and that such remedial measures could affect whether the ADA claim remained justiciable. The order required the parties to report on any remedial measures and required plaintiff to identify the statutory damages sought and provide information relevant to California's high-frequency-litigant provisions.

PROCEDURAL HISTORY

The action was pending before the Central District of California at an early stage, before the initial status conference. The court directed the parties to address alleged remedial measures, their anticipated summary-judgment motions, and whether the court should exercise supplemental jurisdiction over the Unruh Act and other state-law claims. The court also required plaintiff and counsel to provide declarations concerning whether they qualify as high-frequency litigants.

DISPOSITION

other

CASES CITED

- *Oliver v. Ralphs Grocery Co.*, 654 F.3d 903, 905 (9th Cir. 2011)
- *Am. Cargo Transp., Inc. v. United States*, 625 F.3d 1176, 1179 (9th Cir. 2010)
- *Hillesheim v. Holiday Stationstores, Inc.*, 953 F.3d 1059, 1062 (8th Cir. 2020)
- *G. v. Fay Sch.*, 931 F.3d 1, 11 (1st Cir. 2019)
- *Brooke v. A-Ventures, LLC*, 2017 WL 5624941, at *5 (D. Ariz. Nov. 22, 2017)
- *Buckhannon Bd. & Care Home, Inc. v. W. Va. Dep't of Health & Human Res.*, 532 U.S. 598 (2001)
- *Molski v. Foster Freeze Paso Robles*, 267 Fed. Appx. 631, 632 (9th Cir. 2008)
- *City of Chicago v. Int'l Coll. of Surgeons*, 522 U.S. 156, 173 (1997)
- *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 (1988)

OPINION

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES - GENERAL 2:25-cv-02339-SV W-BFM March 19, 2025 Case No. Date Cesar Acevedo v. Hokis, LLC et al Title Present: The Honorable STEPHEN V. WILSON, U.S. DISTRICT JUDGE Paul M. Cruz N/A Deputy Clerk Court Reporter / Recorder Attorneys Present for Plaintiffs: N/A Attorneys Present for Defendants: N/A Proceedings: ORDER TO SHOW CAUSE AND ORDER FOR JOINT STATUS REPORT It is the policy of this Court to encourage expedient resolution of civil litigation.

Cf. Fed. R. Civ. P. 1 (noting that rules of civil procedure should be construed to “secure the just, speedy, and inexpensive determination of every action and proceeding”). In accordance with that policy, the Court reminds the parties that “a defendant’s voluntary removal of alleged barriers prior to trial can have the effect of moot[ing] a plaintiff’s ADA claim.” *Oliver v. Ralphs Grocery Co.*, 654 F.3d 903, 905 (9th Cir.

2011). If the defendant in an ADA case removes the alleged barriers and demonstrates that the alleged barriers could not reasonably be expected to arise again, the ADA claim may be dismissed. See *id.*; see also *Am. Cargo Transp., Inc. v. United States*, 625 F.3d 1176, 1179 (9th Cir. 2010). This is true even if a plaintiff pleads nominal damages, because nominal damages are not available under Title II of the ADA.

See *Hillesheim v. Holiday Stationstores, Inc.*, 953 F.3d 1059, 1062 (8th Cir. 2020); *G. v. Fay Sch.*, 931 F.3d 1, 11 (1st Cir. 2019); *Brooke v. A-Ventures, LLC*, 2017 WL 5624941, at *5 (D. Ariz. Nov. 22, 2017). If an ADA claim is mooted and dismissed at an early stage, the Court has the discretion to decline supplemental jurisdiction over state law claims. See *Oliver*, 654 F.3d at 911 (finding no abuse of discretion where district court declined supplemental jurisdiction after ADA claims were moot).

Additionally, if an ADA claim is mooted and dismissed, the plaintiff is not entitled to attorney's fees. See *Buckhannon Bd. & Care Home, Inc. v. W. Va. Dept. of Health & Human Resources*, 532 U.S. 598 (2001) (affirming denial of attorney's fees where ADA claim rendered moot prior to trial); see also Initials of Preparer PMC UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA CIVIL MINUTES - GENERAL 2:25-cv-02339-SVW-BFM March 19, 2025 Case No. Date Cesar Acevedo v. Hokis, LLC et al Title Molski v. Foster Freeze Paso Robles, 267 Fed.

Appx. 631, 632 (9th Cir. 2008) (citing *Buckhannon*, 532 at 605) (affirming district court's order dismissing ADA claims as moot, dismissing supplemental state claims, and denying attorney's fees). In light of the foregoing, the parties are ORDERED to issue a joint status report at least 7 days prior to the initial status conference.

In that status report, Defendant should describe the measures it has taken to investigate and/or remedy the alleged barriers. If Defendant implemented remedial measures, Plaintiff should state their position regarding those measures. Both parties should state whether and when they intend to move for summary judgment. Further, it appears that Plaintiff has invoked the Court's supplemental jurisdiction to assert state law claims.

See 28 U.S.C. § 1367(a). The supplemental jurisdiction statute "reflects the understanding that, when deciding whether to exercise supplemental jurisdiction, 'a federal court should consider and weigh in each case, and at every stage of the litigation, the values of judicial economy, convenience, fairness, and comity.'" *City of Chicago v. Int'l Coll. of Surgeons*, 522 U.S. 156, 173 (1997) (emphasis added) (quoting *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 (1988)).

The Court therefore further ORDERS Plaintiff to show cause in writing why the Court should exercise supplemental jurisdiction over the Unruh Act claim and any other state law claim asserted in the Complaint. See 28 U.S.C. § 1367(c).

In responding to this Order to Show Cause, Plaintiff shall identify the amount of statutory damages plaintiff seeks to recover. Plaintiff and Plaintiff's counsel shall also support their responses to the Order to Show Cause with declarations, signed under penalty of perjury, providing all facts necessary for the Court to determine if they satisfy the definition of a "high-frequency litigant" as provided by California Civil Procedure Code sections 425.55(b)(1) & (2).

Plaintiff shall file a Response to this Order to Show Cause within 14 days of this order. Failure to timely or adequately respond to this Order to Show Cause may, without further warning, result in the dismissal of the entire action without prejudice or the Court declining to exercise supplemental jurisdiction over the state law claims and the dismissal of any such claims pursuant to 28 U.S.C. § 1367(c).

IT IS SO ORDERED. Initials of Preparer PMC

