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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

CHRIS LANGER,

Plaintiff(s),

vs.

AIMEE H. ABRAHIM, et al.,

Defendant(s).

CASE NO. 14cv2902-LAB (DHB)

ORDER OF DISMISSAL

Plaintiff Chris Langer filed his complaint on December 9, 2014, bringing claims under the Americans with Disabilities Act (ADA) and supplemental state-law claims. The Court is obligated to confirm its own jurisdiction, *sua sponte* if necessary, and to dismiss the complaint if jurisdiction is lacking. See *Chapman v. Pier 1 Imports (U.S.) Inc.*, 631 F.3d 939, 954 (9th Cir.2011) (en banc). The complaint must plead facts, not merely conclusions, to invoke the Court's jurisdiction. See *Leite v. Crane Co.*, 749 F.3d 1117, 1121 (9th Cir. 2014) (citing Fed. R. Civ. P. 8(a)(1); *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007); and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009)). Here, it appears Langer has failed to allege facts showing he has standing to bring his ADA claim. Furthermore, because the only remedy available to Langer under the ADA is injunctive relief, see *Wander v. Kaus*, 304 F.3d 856, 858 (9th Cir. 2002), if injunctive relief is unavailable or would be ineffective, the ADA claim is moot. If the Court lacks jurisdiction over his federal claim, it cannot exercise jurisdiction over supplemental state claims.

1 The complaint adequately alleges that Langer is disabled and that he would like to
2 patronize the restaurant whose parking lot he says is defective. The complaint does not,
3 however, allege how the condition of the parking lot harmed him when he visited the
4 restaurant, or how it is deterring him from returning. Instead, it relies on conclusions.
5 Essentially, its theory is that because he is disabled he merely needs to identify an ADA
6 violation on the premises that pertains to his disability. But this is not enough to show
7 standing.

8 The complaint alleges that Langer uses a wheelchair, and drives a special van that
9 deploys a ramp for the wheelchair out of the passenger side. It then alleges while “there is
10 a parking space ostensibly for persons with disabilities,” the lot has “no accessible parking
11 spaces reserved for persons with disabilities.” (Complaint, ¶ 10.) In other words, he agrees
12 a parking space is reserved for persons with disabilities, but alleges it has no designated
13 access aisle. The complaint also alleges there was a parking place reserved for disabled
14 patrons that did have an access aisle, but the markings on the pavement have faded. (*Id.*
15 at 11)

16 What is missing here is an allegation of how the condition of the parking lot prevents
17 him from parking, navigating the parking lot, or accessing the business. For example, Langer
18 hasn't alleged facts showing why faded paint prevented him from parking in the spot he
19 described, or why it deters him from returning in the future. A parking lot may technically be
20 ADA-noncompliant in ways that might pose difficulties for others, and yet be still fully usable
21 by Langer. By way of example, if there is a space that serves the function of an access aisle
22 in all respects, the fact that it was not specifically designated as such would make no real
23 difference. If that were true, Langer would have no standing to sue for merely technical
24 violations that do not affect him, or for which the Court can grant no meaningful relief. The
25 complaint should allege facts showing this is not the case.

26 The insufficiency of the allegations makes it impossible to make the determination
27 that it is likely and not merely speculative that Langer would benefit from injunctive relief; this
28 is relevant both to the redressability prong of the standing analysis, *see Lujan v. Defenders*

1 of *Wildlife*, 504 U.S. 555, 561 (1992), and the question of whether the Court can grant
2 meaningful injunctive relief. See *Center for Biological Diversity v. Lohn*, 511 F.3d 960, 964
3 (9th Cir. 2007) (where the only relief sought would serve no meaningful purpose, claims were
4 moot).

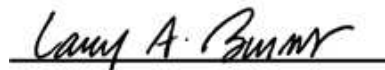
5 While the Court is not at this stage examining the sufficiency of the pleadings, there
6 are not even any factual allegations to establish that Defendants' business is covered by the
7 ADA, and that reserved handicap-accessible handicapped spaces are required. See *Yates*
8 *v. Bacco*, 2014 WL 1089101, at *4 and n.5 (N.D.I. Cal., Mar. 17, 2014) (discussing different
9 standards applicable to premises depending on when they were constructed).

10 Ordinarily the Court would direct a plaintiff to either amend or show cause why the
11 complaint should not be dismissed without prejudice. But both Langer and his counsel have
12 been confronted with similar pleading deficiencies several times before, and are familiar with
13 the required standard. See, e.g., *Langer v. Shamoun*, 14cv1822-LAB (BLM), Docket no. 7
14 (Order to Show Cause re: Jurisdiction); and *Langer v. Wisham*, 14cv1857-LAB (KSC),
15 Docket no. 5 (Order to Show Cause re: Jurisdiction).

16 This action is therefore **DISMISSED WITHOUT PREJUDICE** for failure to invoke the
17 Court's jurisdiction. Within **21 calendar days from the date this order is issued**, Langer
18 may file an amended complaint pleading facts that remedy the defects this order has
19 identified. If he does not amend within the time permitted, this action will be dismissed
20 without leave to amend, both for failure to invoke the Court's jurisdiction, and for failure to
21 obey the Court's orders.

22 **IT IS SO ORDERED.**

23 DATED: December 11, 2014.

24 

25 **HONORABLE LARRY ALAN BURNS**
26 United States District Judge

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