

1 sufficient factual allegations to establish a plausible entitlement to relief. *Bell Atl. Corp. v.*
2 *Twombly*, 550 U.S. 544, 556 (2007). Such allegations must amount to “more than labels and
3 conclusions, [or] a formulaic recitation of the elements of a cause of action.” *Id.* at 555. When I
4 evaluate a motion to dismiss, I “may not look beyond the complaint to a plaintiff’s moving
5 papers,” so the plaintiff cannot rely on facts contained in an opposition to a motion to dismiss
6 that are not alleged in the complaint. *Schneider v. Cal. Dep’t of Corr.*, 151 F.3d 1194, 1197 n.1
7 (9th Cir. 1998) (emphasis omitted). To state an ADA retaliation claim, the plaintiff must
8 plausibly allege that (1) “she engaged in a protected activity; (2) suffered an adverse employment
9 action; and (3) there was a causal link between the two.” *Pardi v. Kaiser Found. Hosps.*, 389
10 F.3d 840, 849 (9th Cir. 2004).

11 I grant Amazon’s motion to dismiss because Chapman-Pinto’s complaint fails to state a
12 retaliation claim under the ADA. I cannot consider the allegation Chapman-Pinto makes in her
13 response to Amazon’s motion to dismiss that Amazon fired her in retaliation for taking FMLA
14 leave. *See* ECF No. 1 at 7 ¶ 46. That allegation is not contained in the complaint. I grant
15 Chapman-Pinto leave to amend her complaint should she want to plead that allegation.
16 Additionally, it is not clear from the complaint whether Chapman-Pinto also brings an FMLA
17 retaliation claim against Amazon as she includes FMLA in the title of the claim but she does not
18 plead it in the text. If Chapman-Pinto amends, to the extent that she intends to plead both ADA
19 and FMLA retaliation claims, she must plead each element of each claim and support each
20 element with sufficient factual allegations to make each claim plausible under the relevant law.

21 I THEREFORE ORDER that Amazon’s motion to dismiss (**ECF No. 7**) is **granted**.

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1 I FUTHER ORDER that Chapman-Pinto has until June 28, 2024 to file an amended
2 complaint if she wishes to do so.

3 DATED this 5th day of June, 2024.

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7 ANDREW P. GORDON
8 UNITED STATES DISTRICT JUDGE
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