

Digest: Munson v. Del Taco, Inc.

Joseph A. Chern

Opinion by Werdegar, J., expressing the unanimous view of the court.

Issues

(1) Does a plaintiff seeking damages, under California Civil Code section 52,¹ claiming unequal treatment on the basis of disability in violation of California Civil Code section 51 (“Unruh Civil Rights Act”)² and Americans with Disabilities Act of 1990³ (“ADA”) need to prove intentional discrimination?

(2) If plaintiff must prove intentional discrimination, what does “intentional discrimination” mean in this context?

Facts

Plaintiff Kenneth Munson has a physical disability that requires the use of a wheelchair.⁴ He was a patron at a Del Taco restaurant in San Bernardino, California, which was owned and operated by defendant Del Taco, Inc.⁵ Plaintiff brought action in state court, alleging that the restaurant discriminated against him on the basis of his disability, because he encountered architectural barriers⁶ that denied him access to the parking area and restrooms.⁷ He sought injunctive relief, damages, and attorney fees under California Civil Code section 52 (“section 52”).⁸ The action was removed to federal court.⁹

After cross-motions for summary judgment, the district court granted partial summary judgment in favor of plaintiff.¹⁰ The

¹ CAL. CIV. CODE § 52 (West 2007).

² CAL. CIV. CODE § 51 (West 2007) (“Unruh Civil Rights Act”).

³ 42 U.S.C. §§ 12101–12213 (2006).

⁴ *Munson v. Del Taco, Inc.*, 208 P.3d 623, 625 (Cal. 2009).

⁵ *Id.*

⁶ Plaintiff’s primary complaint was that the doorway of the restaurant bathroom was too narrow for a wheelchair and the restroom itself was not adequately designed for a wheelchair user. *Id.* at n.3. Following the complaint, defendant remodeled the restaurant to correct these and other problems. *Id.*

⁷ *Id.* at 625.

⁸ *Id.*

⁹ *Id.* at 623.

¹⁰ *Id.* at 625.

district court concluded there was no genuine issue of fact that an architectural barrier existed and that the restroom doorway widening was readily achievable.¹¹ Therefore, an ADA violation occurred and plaintiff was entitled to pursue statutory damages.¹²

In lieu of holding a jury trial on the issue of damages, the parties stipulated to \$12,000 in damages.¹³ Defendant appealed the district court's decision granting plaintiff's motion for partial summary judgment.¹⁴

The California Supreme Court previously held that proof of intentional discrimination was necessary to obtain damages under section 52, despite legislative additions to include unintentional ADA violations under the Unruh Civil Rights Act.¹⁵ On appeal, defendant argued that plaintiff failed to introduce sufficient evidence to establish the requisite intent under the Unruh Civil Rights Act.¹⁶ Plaintiff defends that such intent is not required or, alternatively, that the requisite intent is the intent not to remove barriers to access where readily achievable.¹⁷ The Court of Appeals certified this issue to the Supreme Court of California.¹⁸

Analysis

1. Statutory Background

California Civil Code section 51 provides substantive protection against invidious discrimination in public accommodations and section 52 specifies the remedies for violations of section 51.¹⁹ Prior to 1992, the interrelated statutory scheme of section 51 and 52 required proof of intentional discrimination in public accommodations in violation of the terms of that statute.²⁰ Subsequently, in order to conform aspects of California law to the recently enacted ADA, the Legislature amended section 51 ("the 1992 Amendment") to incorporate violations under the ADA as violations of section

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* (citing *Gunther v. Lin*, 144 Cal.App.4th 223 (Cal. 2006)).

¹⁶ *Id.*

¹⁷ *Id.* at 626.

¹⁸ *Id.* at 624.

¹⁹ *Id.* at 626 (citing CAL. CIV. CODE §§ 51,52 (West 2007)).

²⁰ *Id.* at 626–27 (discussing the holding of *Harris v. Capital Growth Investors XIV*, 52 Cal.3d 1142 (Cal. 1991)).

51.²¹ The incorporated ADA provisions include access requirements to facilities, which do not require a showing of intentional discrimination if removal of architectural barriers is readily achievable.²²

2. Statutory Language and Context

In light of the statutory history of sections 51 and 52, the court noted that a reasonable interpretation of those sections authorize a private action for damages of ADA violations *without* proof of intentional discrimination.²³ However, despite the 1992 Amendment, section 52 does not expressly state that its remedies apply to every violation of section 51, but only to any person who “denies, aids or incites a denial, or makes any discrimination or distinction contrary to Section 51.”²⁴ Therefore, another *linguistically* possible interpretation is that section 52 authorizes a private action for damages only for ADA violations involving intentional discrimination.²⁵

But this latter interpretation is without historical support.²⁶ Section 52 has always provided the enforcement mechanism for violations of section 51.²⁷ The Court has only held that unintentional violations did not violate section 52 at all, *prior* to the 1992 Amendment.²⁸ Therefore, it must follow the effect of the amendment is to create an exception for the need to show intentional discrimination for remediable violations under section 52.²⁹

3. Legislative History

The legislative history of the 1992 Amendment indicates the legislative intent was to “provid[e] persons injured by a violation of the ADA with the remedies provided by the Unruh Act (e.g., right of private action for damages).”³⁰ Although the legislative history does not distinguish between intentional and unintentional discrimination, any doubt must be resolved by the principle that the Unruh Act “must be construed liberally in order to . . . create and preserve a nondiscriminatory environment

²¹ *Id.* at 627 (codifying this amendment in CAL. CIV. CODE § 51(f) (West 2007)).

²² *Id.* at 628.

²³ *Id.* at 628–29 (referencing the interpretation embraced by the court in *Lentini v. California Center for the Arts*, 370 F.3d 837 (9th Cir. 2004)).

²⁴ *Id.* at 629.

²⁵ *Id.* (citing *Gunther v. Lin*, 144 Cal.App.4th 223, 234–35 (Cal. 2006)).

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* (citing *Harris v. Capital Growth Investors XIV*, 52 Cal.3d 1142, 1175 (Cal. 1991)).

²⁹ *Id.* at 630.

³⁰ *Id.* (quoting Assem. B., No. 1077, Reg. Sess. (Cal. 1991–92)).

in California business establishments.”³¹ Accordingly, the evidence suggests the 1992 Amendment not only prohibits ADA violations under the Unruh Act, but also provides remedial damages for *any* such violation under section 52.³²

4. Relationship to Other Statutes and Prevention of Abusive Litigation

The court rejects the argument that there was a deliberate legislative choice to require proof of intentional discrimination under the Unruh Civil Rights Act, which provided minimum damages of \$4,000.³³ Although unintentional violations could be remedied under the Disabled Persons Act,³⁴ which provided minimum damages of only \$1,000, the 1992 Amendments were not only made to the Unruh Civil Rights Act, but also to the Disabled Persons Act.³⁵ Consequently, the minimum damages under the two laws were identical at \$250 and the possible difference in minimum damages for greater scienter was eliminated by the 1992 Amendment.³⁶

Similarly, the Legislature acknowledges that the Unruh Civil Rights Act and the Disabled Persons Act have significant areas of overlapping application and expressly prohibits double recover.³⁷ Nevertheless, there are unique provisions to both statutory schemes, which do not render either section redundant and eliminates the need to restrict any the remediable violations.³⁸

Finally, the court gives ultimate deference to the Legislature to consider whether there may be a need for statutory alterations to prevent “abusive private legal actions and settlement tactics.”³⁹ Courts are bound to interpret the statutes in accordance with legislative intent, free from substituting its own policy judgments.⁴⁰

Holding

The court held that a plaintiff seeking damages under California Civil Code section 52, who claims the denial of full and equal treatment on the basis of disability in violation of the

³¹ *Id.* (quoting *Angelucci v. Century Supper Club*, 41 Cal.4th 160, 167 (Cal. 2007)).

³² *Id.*

³³ *Id.* at 631.

³⁴ CAL. CIV. CODE §§ 54–55.3 (West 2007) (*Disabled Persons Act*).

³⁵ *Munson*, 208 P.3d at 631.

³⁶ *Id.*

³⁷ *Id.* at 632.

³⁸ *Id.*

³⁹ *Id.* at 633.

⁴⁰ *Id.*

2010]

Munson v. Del Taco, Inc.

493

Unruh Civil Rights Act and the ADA, need not prove “intentional discrimination.”⁴¹

Legal Significance

Declining to impose a non-statutory requirement for a plaintiff to prove intentional discrimination when seeking damages for ADA violations under the Unruh Act, the court expressly overrules *Gunther v. Lin*.⁴² As a result, millions of disabled Californians who rely on the Unruh Act for protection from discriminatory business practices are afforded broader protection by eliminating overly burdensome proof requirements to recover remedial damages under the state antidiscrimination law.

⁴¹ *Id.* at 634.

⁴² *Id.*

