

2026 WL 657194

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United States District Court, N.D. California.

GUST BISCOVICH, Plaintiff,

v.

SHARKNINJA OPERATING, LLC, Defendant.

Case No. 25-cv-03993-EKL

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Filed 02/26/2026

Attorneys and Law Firms

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ORDER GRANTING MOTION TO DISMISS

Eumi K. Lee United States District Judge

*1 Plaintiff Gust Biscovich brings this putative class action for economic harm based on allegedly defective pressure cookers manufactured by Defendant SharkNinja Operating, LLC, which are the subject of an ongoing recall. Before the Court is Defendant's motion to dismiss the first amended complaint. Mot. to Dismiss, ECF No. 27 ("Mot."). Having carefully reviewed the parties' briefs and heard argument on January 28, 2026, the Court GRANTS the motion to dismiss without leave to amend. This dismissal is without prejudice to Plaintiff renewing his claims when or if they become ripe.

I. BACKGROUND¹

Defendant manufactures different models of "Ninja Foodi OP300 Series Multi-Function Pressure Cookers" ("Pressure Cookers") that were designed to safely allow consumers to "open the pressure cooker and check on the status of their food." See First Am. Compl. ¶¶ 3, 14, 28, ECF No. 26 ("FAC"). On May 1, 2025, Defendant issued a recall of the Pressure Cookers, including the model Plaintiff purchased, in coordination with the U.S.

Consumer Product Safety Commission ("CPSC"). See *id.* ¶¶ 3, 6, 20; *SharkNinja Recalls 1.8 Million Foodi Multi-Function Pressure Cookers Due to Burn Hazard; Serious Burn Injuries Reported*, U.S. Consumer Prod. Safety Comm'n, <https://www.cpsc.gov/Recalls/2025/SharkNinja-Recalls-1-8-Million-Foodi-Multi-Function-Pressure-Cookers-Due-to-Burn-Hazard-Serious-Burn-Injuries-Reported> [<https://perma.cc/99N5-ECHT>] (last visited Feb. 26, 2026). The recalled Pressure Cookers contain a lid that "can be opened during use, causing hot contents to escape, posing a risk of burn injuries to consumers" ("Defect"). FAC ¶ 5. The recall, which remains ongoing, provides "a replacement [lid] that the consumer must safely install." *Id.* ¶¶ 6, 21; Hr'g Tr. at 8:18-21, ECF No. 43.

On May 7, 2025, less than a week after the recall started, Plaintiff filed this action on behalf of himself and a putative class. ECF No. 1. Plaintiff does not allege that the Defect has manifested in the pressure cooker he purchased in 2020; nor does he allege that he has suffered any physical injury from its use. Instead, Plaintiff seeks to recover damages on two bases: (1) he overpaid for his pressure cooker, in light of the Defect; and (2) he would not have purchased the pressure cooker had Defendant disclosed the Defect. FAC ¶¶ 12, 70, 107. Although Plaintiff contends that the recall would not provide the full relief that he seeks, Plaintiff does not allege that he has participated in the recall. *Id.* ¶ 6.

On August 18, 2025, Defendant moved to dismiss the complaint. ECF No. 19. Plaintiff failed to respond to the motion to dismiss, despite receiving an extension of time to file his opposition. See ECF Nos. 23, 25. On October 2, 2025, the Court granted the unopposed motion to dismiss, with leave to amend the complaint. ECF No. 25. Plaintiff filed an amended complaint. In the amended complaint, Plaintiff alleges that Defendant knowingly marketed and sold defective Pressure Cookers to Plaintiff and the putative class, causing them economic harm. FAC ¶¶ 3-4, 12, 70, 75, 107. Plaintiff brings claims under California law for fraudulent concealment, breach of express warranty, breach of the implied warranty of merchantability, and unjust enrichment. *Id.* ¶¶ 52-117. Plaintiff also seeks "an injunction requiring that Defendant engage in a corrective notice campaign."² *Id.* at 22.

*2 On October 24, 2025, Defendant again moved to dismiss. Among other arguments, Defendant asserted that Plaintiff's claims should be dismissed as prudentially moot because Plaintiff can obtain the relief he seeks in this suit through the

voluntary recall in which he has not participated.³ Mot. at 9-10. In advance of the motion hearing, the Court instructed the parties to address another aspect of subject matter jurisdiction: whether Plaintiff's claims should be dismissed on prudential ripeness grounds. ECF No. 38; *see also* Fed. R. Civ. P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”).

II. LEGAL STANDARD

Under Federal Rule of Civil Procedure 12(b)(1), a court must dismiss claims over which it lacks subject matter jurisdiction. Under the ripeness doctrine, courts may dismiss without prejudice claims “that are premature for review.” *Chandler v. State Farm Mut. Auto. Ins. Co.*, 598 F.3d 1115, 1122-23 (9th Cir. 2010) (citation omitted); *see also St. Clair v. City of Chico*, 880 F.2d 199, 201 (9th Cir. 1989 (“Whether a claim is ripe for adjudication goes to a court's subject matter jurisdiction[.]”). “[T]he ripeness inquiry contains both a constitutional and a prudential component.” *Thomas v. Anchorage Equal Rts. Comm'n*, 220 F.3d 1134, 1138 (9th Cir. 2000) (quoting *Portman v. County of Santa Clara*, 995 F.2d 898, 902 (9th Cir. 1993)). “The constitutional component focuses on whether there is sufficient injury, and thus is closely tied to the [Article III] standing requirement; the prudential component, on the other hand, focuses on whether there is an adequate record upon which to base effective review.” *Portman*, 995 F.2d at 902-03 (citations omitted). The analysis of prudential ripeness “is guided by two overarching considerations: ‘the fitness of the issues for judicial decision and the hardship to the parties of withholding court consideration.’ ” *Tao v. Arovast Corp.*, No. 24-5413, 2025 WL 3552774, at *2 (9th Cir. Dec. 11, 2025) (quoting *Thomas*, 220 F.3d at 1141).

III. DISCUSSION

Based on the allegations in the amended complaint, the Court concludes that dismissal on prudential ripeness grounds is appropriate because (1) the issues raised in the complaint are not fit for judicial decision, and (2) withholding judicial review would not cause hardship to Plaintiff.

First, “[a] claim is fit for decision if the issues raised are primarily legal, do not require further factual development, and the challenged action is final.” *Tao*, 2025 WL 3552774, at *2 (quoting *US West Commc'ns v. MFS Intelenet, Inc.*, 193 F.3d 1112, 1118 (9th Cir. 1999)). By contrast, a claim is unfit for decision where “further factual development

would significantly advance [the Court's] ability to deal with the legal issues presented[.]” *Nat'l Ass'n for Gun Rts., Inc. v. City of San Jose*, 618 F. Supp. 3d 901, 912 (N.D. Cal. 2022) (citation modified) (quoting *Nat'l Park Hosp. Ass'n v. Dep't of Interior*, 538 U.S. 803, 812 (2003)). The Ninth Circuit's recent decision in *Tao* is instructive. In that case, the plaintiff brought claims for breach of express warranty, breach of the implied warranty of merchantability, and fraudulent concealment (among others). The plaintiff's claims stemmed from the defendant's marketing of allegedly defective air fryers. *Finch v. Arovast Corp.*, No. 23-cv-00599, 2024 WL 4113270, at *1 (C.D. Cal. Aug. 26, 2024), *aff'd sub nom.*, *Tao v. Arovast Corp.*, No. 24-5413, 2025 WL 3552774 (9th Cir. Dec. 11, 2025). The air fryers were subject to a “recall being overseen by the CPSC” but plaintiff had “not attempted to take advantage of” the recall. *Tao*, 2025 WL 3552774, at *2. The Ninth Circuit found that “the factual record ha[d] not been fully developed” because “there [we]re still ‘many unknown facts’ concerning whether Plaintiff's claims would be resolved if and when he avails himself of the CPSC recall.” *Id.* (quoting *Am.-Arab Anti-Discrimination Comm. v. Thornburgh*, 970 F.2d 501, 510-12 (9th Cir. 1991)). Accordingly, the Ninth Circuit affirmed the district court's dismissal on prudential ripeness grounds, explaining that it was “avoid[ing] unnecessary adjudication by declining judicial review.” *Id.*

*3 The Court takes the same approach in this case. Plaintiff asserts the same legal theory that was at issue in *Tao* – *i.e.*, that he suffered economic injury based on Defendant's marketing of an allegedly defective product. FAC ¶¶ 12, 33, 70, 83, 107, 116; *see Finch*, 2024 WL 4113270, at *1, *3. Indeed, other than the unjust enrichment claim that is pled in the alternative, FAC ¶ 111, Plaintiff brings the same claims as the plaintiff in *Tao*. In addition, like the plaintiff in *Tao*, Plaintiff has not participated in the ongoing recall of the Pressure Cookers, which may provide a remedy for his alleged economic injuries. Consequently, “there are still ‘many unknown facts’ concerning whether Plaintiff's claims would be resolved if and when he avails himself of the CPSC recall.” *Tao*, 2025 WL 3552774, at *2 (citation omitted). As a result, the Court finds Plaintiff's claims require further factual development and are not fit for judicial review.

Second, “[t]o meet the hardship requirement, a litigant must show that withholding review would result in direct and immediate hardship and would entail more than possible financial loss.” *Tao*, 2025 WL 3552774, at *2 (citation modified) (quoting *MFS Intelenet, Inc.*, 193 F.3d at 1118).

Like the plaintiff in *Tao*, here, “Plaintiff has not alleged that he has suffered physical or any other non-financial type of harm.” *Id.* All his alleged injuries are financial in nature. Specifically, Plaintiff asserts that, if he and the putative class had known “about the Defect, they would not have purchased the [r]ecalled Pressure Cookers or would have paid less for them.” FAC ¶ 70; *see also id.* ¶ 12. Likewise, he alleges that he “suffered economic loss due to [the] [r]ecall, resulting in a diminished value of the pressure cooker relative to its original purchase price.” *Id.* ¶ 107. “As such, any hardship he might experience as a result of the [C]ourt declining to exercise jurisdiction over his claims would be purely financial in nature and does not meet the hardship requirement.” *Tao*, 2025 WL 3552774, at *2.

* * *

In sum, Plaintiff’s claims are not fit for judicial decision and he has not shown that any hardship would result if the Court withholds review of his claims at this time. Thus, the Court holds that Plaintiff’s claims are prudentially unripe, and the

Court lacks subject matter jurisdiction. “Because amendment cannot cure this jurisdictional defect” at this time, the Court dismisses this case without leave to amend. *See Finch*, 2024 WL 4113270, at *4.

IV. CONCLUSION

For the foregoing reasons, the Court GRANTS Defendant’s motion to dismiss. Because the Court’s ruling is based on a lack of subject matter jurisdiction, dismissal is without prejudice to Plaintiff reasserting his claims when or if they become ripe. *Crook v. Wyndham Destinations, Inc.*, 830 F. App’x 963, 964 (9th Cir. 2020) (“[A] dismissal for lack of subject matter jurisdiction should be without prejudice.” (citing *Kelly v. Fleetwood Enters., Inc.*, 377 F.3d 1034, 1036 (9th Cir. 2004))).

IT IS SO ORDERED.

All Citations

--- F.Supp.3d ----, 2026 WL 657194

Footnotes

- 1 The facts are taken from the operative complaint and assumed to be true for purposes of this motion.
- 2 At the hearing, Plaintiff agreed to withdraw his breach of express warranty claim and request for injunctive relief, without leave to amend. Hr’g Tr. at 21:6-14.
- 3 Defendant raises the following arguments in support of dismissal: (1) lack of Article III standing, (2) prudential mootness, (3) failure to state a claim under [Federal Rule of Civil Procedure 12\(b\)\(6\)](#), and (4) failure to comply with Federal Rule of Procedure 9(b) as to the fraudulent concealment claim.