NOT FOR PUBLICATION

FILED

OCT 29 2026

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BRENDA MOORE,

Plaintiff - Appellant,

v.

STEVEN QUICK; JULIA DOUGLAS; CALIFORNIA CIVIL RIGHTS DEPARTMENT; YESENIA GUTIERREZ,

Defendants - Appellees.

No. 25-3965

D.C. No. 3:25-cv-00482-BJC-DDL

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Benjamin J. Cheeks, District Judge, Presiding

Submitted October 27, 2026**

Before: SILVERMAN, FORREST, and VANDYKE, Circuit Judges.

Brenda Moore appeals pro se from the district court's judgment dismissing her action alleging a failure to accommodate under the Fair Housing Act, Rehabilitation Act, and other claims. We have jurisdiction under 28 U.S.C. § 1291.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We review de novo. *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012) (dismissal under 28 U.S.C. § 1915(e)(2)(B)); *Janicki Logging Co. v. Mateer*, 42 F.3d 561, 563 (9th Cir. 1994) (dismissal for lack of subject matter jurisdiction). We vacate and remand.

The district court dismissed Moore's claims under the Fair Housing Act and Rehabilitation Act for lack of subject matter jurisdiction but the district court had federal question jurisdiction over these federal claims. *See* 28 U.S.C. § 1331. Dismissal of these claims was nevertheless proper because Moore failed to allege facts sufficient to state a plausible claim. *See Csutoras v. Paradise High Sch.*, 12 F.4th 960, 968-69 (9th Cir. 2021) (setting forth elements of a reasonable accommodation claim under the Rehabilitation Act); *Dubois v. Ass'n of Apartment Owners of 2987 Kalakaua*, 453 F.3d 1175, 1179 (9th Cir. 2006) (setting forth elements of a reasonable accommodation claim under the Fair Housing Act).

However, dismissal without leave to amend was premature because it is not "absolutely clear" that any deficiencies could not be cured by amendment. *See Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000) (en banc) (setting forth standard of review and explaining that "a district court should grant leave to amend even if no request to amend the pleading was made, unless it determines that the pleading could not possibly be cured by the allegation of other facts" (citation and internal quotation marks omitted)); *Lucas v. Dep't of Corr.*, 66 F.3d 245, 248 (9th

Cir. 1995) ("Unless it is absolutely clear that no amendment can cure the defect . . . a pro se litigant is entitled to notice of the complaint's deficiencies and an opportunity to amend prior to dismissal of the action."). Because it is not impossible that the deficiencies in Moore's claims may be cured by amendment, we vacate the judgment and remand for the district court to provide Moore with an opportunity to file an amended complaint.

We reject as unsupported by the record Moore's contentions that the district court violated her right to due process.

VACATED and REMANDED.