

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Barry James Christensen, II v. Findlay ARN, LLC, et al.

Christensen · No. 3:24-CV-00371-ART-CLB · Decided December 31, 2025

SUMMARY

The United States District Court for the District of Nevada addresses Plaintiff Barry James Christensen, II’s motion for leave to file an amended complaint and Defendants’ motion to strike that motion and the proposed amended complaint. The court grants the motion to amend in part and denies it in part, rejecting proposed new defendants and claims including constructive fraud and constructive discharge as unduly delayed, prejudicial, or futile. The court denies Defendants’ motion to strike.

CASE DETAILS

COURT	United States District Court for the District of Nevada
JURISDICTION	United States District Court for the District of Nevada
DECIDED	December 31, 2025
DOCKET	3:24-CV-00371-ART-CLB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved under Federal Rule of Civil Procedure 15(a)(2) for leave to amend his complaint, and defendants moved under Rule 12(f) to strike the motion to amend and proposed amended complaint.
STANDARD OF REVIEW	Leave to amend under Rule 15(a)(2) is generally granted freely when justice so requires, with consideration of bad faith, undue delay, prejudice, futility, and prior amendments; prejudice receives the greatest weight and the opposing party bears the burden of establishing it. Futility alone may justify denial when the proposed amendment is legally insufficient or would be subject to dismissal. A Rule 12(f) motion to strike is discretionary, disfavored, and ordinarily requires a showing of prejudice.
PRECEDENTIAL VALUE	unpublished

TOPICS

- motion to amend
- civil procedure
- employment law
- employment contracts
- intentional infliction of emotional distress

PRACTICE AREAS

civil procedure

employment law

employment contracts

employment at-will

torts

QUESTIONS PRESENTED

1. Whether leave should be granted to add Clifford J. Findlay, Donna Sue Findlay, the Findlay Trust, and Findlay Management Group as defendants.
2. Whether leave should be granted to add claims for constructive fraud, constructive discharge, unjust enrichment, and intentional infliction of emotional distress.
3. Whether leave should be granted to withdraw three existing claims and remove Findlay Automotive as a defendant.
4. Whether defendants' Rule 12(f) motion to strike the motion to amend and proposed amended complaint should be granted.

HOLDINGS

1. Leave to amend was denied because the proposed amendment was unduly delayed and futile. Alleged ownership or financial benefit, without allegations of operational or economic control over the employment relationship, was insufficient to plead that these parties were employers under the FLSA.
2. Leave to add Findlay Management Group was denied because the motion was unduly delayed and adding the entity would cause substantial prejudice by requiring additional discovery and expanding the litigation.
3. Leave to add all four proposed claims was denied because each amendment was futile and independently was affected by undue delay and prejudice.
4. Leave to amend was granted to remove Findlay Automotive and withdraw the claims under NRS 613.120, NRS 598.0915(15), NRS 598.0923(1)(d), NRS 598.0923(1)(e), and NRS 41.130.
5. The motion to strike Christensen's motion to amend and proposed amended complaint was denied.

KEY QUOTATIONS

“A constructive discharge has been held to exist when an employer creates working conditions so intolerable and discriminatory that a reasonable person in the employee's position would feel compelled to resign.”
(Opinion section II.B.2.ii)

“An unjust enrichment claim cannot lie where an express written contract exists “because no agreement can be implied when there is an express agreement.”” (Opinion section II.B.2.iii)

“The essential function of a Rule 12(f) motion is to “avoid the expenditure of time and money that may arise from litigating spurious issues by dispensing with those issues prior to trial.”” (Opinion section III.A)

FACTUAL BACKGROUND

Christensen was employed as a general sales manager at Audi Reno Tahoe from January 2020 through February 2024. He sought to add individuals and a family trust based primarily on alleged ownership interests in the

dealership, but the proposed pleading did not allege that those parties exercised operational, hiring, firing, compensation, or other economic control over his employment. He also sought to add several state-law claims based on alleged compensation changes, workplace treatment, and emotional distress, while acknowledging that much of the supporting information was already in his possession. Defendants opposed amendment as delayed, prejudicial, and futile and moved to strike the motion and proposed amended complaint as allegedly scandalous.

PROCEDURAL HISTORY

Christensen filed the action pro se on August 19, 2024, asserting federal and Nevada employment-related claims against Findlay ARN, LLC, Findlay Automotive, and Justin Findlay. He later moved for leave to amend to remove one defendant and three claims, add four defendants, and add claims for constructive fraud, constructive discharge, unjust enrichment, and intentional infliction of emotional distress. The court granted leave only to remove Findlay Automotive and the three specified claims, denied leave to add the new defendants and proposed claims, and denied defendants' motion to strike.

DISPOSITION

other

CASES CITED

- Sonoma County Ass'n of Retired Employees v. Sonoma County, 708 F.3d 1109, 1117 (9th Cir. 2013)
- Union Pacific Railroad Co. v. Nevada Power Co., 950 F.2d 1429, 1432 (9th Cir. 1991)
- Desertrain v. City of Los Angeles, 754 F.3d 1147, 1154 (9th Cir. 2014)
- Brown v. Stored Value Cards, Inc., 953 F.3d 567, 574 (9th Cir. 2020)
- Eminence Capital, LLC v. Aspeon, Inc., 316 F.3d 1048, 1052 (9th Cir. 2003)
- DCD Programs, Ltd. v. Leighton, 833 F.2d 183, 186-87 (9th Cir. 1987)
- Morongo Band of Mission Indians v. Rose, 893 F.2d 1074, 1079 (9th Cir. 1990)
- Nunes v. Ashcroft, 375 F.3d 805, 808 (9th Cir. 2004)
- Bonin v. Calderon, 59 F.3d 815, 845 (9th Cir. 1995)
- Missouri ex rel. Koster v. Harris, 847 F.3d 646, 656 (9th Cir. 2017)
- Platt Electric Supply, Inc. v. EOFF Electric, Inc., 522 F.3d 1049, 1060 (9th Cir. 2008)
- Chodos v. West Publishing Co., 292 F.3d 992, 1003 (9th Cir. 2002)
- Lockheed Martin Corp. v. Network Solutions, Inc., 194 F.3d 980, 986 (9th Cir. 1999)
- Edwards v. Conn Appliances, Inc., 2020 WL 6126276, at *2 (D. Nev. Sept. 30, 2020)
- Sako v. Wells Fargo Bank, National Association, 2015 WL 5022326, at *2 (S.D. Cal. Aug. 24, 2015)
- Boucher v. Shaw, 572 F.3d 1087, 1091 (9th Cir. 2009)
- Lambert v. Ackerley, 180 F.3d 997, 1001-02, 1012 (9th Cir. 1999)
- United States v. United Healthcare Insurance Co., 848 F.3d 1161, 1184 (9th Cir. 2017)
- Perry v. Jordan, 900 P.2d 335, 337-38 (Nev. 1995)
- Long v. Towne, 639 P.2d 528, 529-30 (Nev. 1982)

- Mackintosh v. California Federal Savings & Loan Association, 935 P.2d 1154, 1160 (Nev. 1997)
- Vess v. Ciba-Geigy Corp. USA, 317 F.3d 1097, 1103, 1107 (9th Cir. 2003)
- Salameh v. Dynamics C4 Systems, Inc., 637 F.3d 1047, 1055 (9th Cir. 2011)
- Sacramento E.D.M., Inc. v. Hynes Aviation Industries, Inc., 965 F. Supp. 2d 1141, 1151 (E.D. Cal. 2013)
- Neubronner v. Milken, 6 F.3d 666, 671 (9th Cir. 1993)
- Edwards v. Marin Park, Inc., 356 F.3d 1058, 1066 (9th Cir. 2004)
- Satterwhite v. Smith, 744 F.2d 1380, 1381 (9th Cir. 1984)
- Pennsylvania State Police v. Suders, 542 U.S. 129, 147 (2004)
- Munoz, 2021 WL 9220191, at *3 (9th Cir. 2021)
- Green v. Brennan, 578 U.S. 547 (2016)
- Mayorga v. Diet Center LLC, 2024 WL 1574362, at *2 (9th Cir. Apr. 11, 2024)
- Brooks v. City of San Mateo, 229 F.3d 917, 930 (9th Cir. 2000)
- Manatt v. Bank of America, 339 F.3d 792, 804 (9th Cir. 2003)
- Montero v. AGCO Corp., 192 F.3d 856, 861 (9th Cir. 1999)
- Smith v. Bath Iron Works Corp., 943 F.2d 164 (1st Cir. 1991)
- In re Amerco Derivative Litigation, 252 P.3d 681, 703 (Nev. 2011)
- Leasepartners Corp. v. Robert L. Brooks Trust Dated Nov. 12, 1975, 942 P.2d 182, 187 (Nev. 1997)
- Unionamerica Mortgage & Equity Trust v. McDonald, 626 P.2d 1272, 1274 (Nev. 1981)
- Blige v. Terry, 540 P.3d 421, 432 (Nev. 2023)
- Miller v. Jones, 970 P.2d 571, 577 (Nev. 1998)
- Okeke v. Biomat USA, Inc., 927 F. Supp. 2d 1021, 1029 (D. Nev. 2013)
- Maduike v. Agency Rent-A-Car, 953 P.2d 24, 26 (Nev. 1998)
- Mikhalsky v. Tran, 555 P.3d 285 (Nev. App. 2024)
- Branda v. Sanford, 637 P.2d 1223, 1227 (Nev. 1981)
- Evans v. Hawes, 718 F. Supp. 3d 1351, 1373 (D. Nev. 2024)
- Chowdhry v. NLVH, Inc., 851 P.2d 459, 482 (Nev. 1993)
- Shoen v. Amerco, Inc., 896 P.2d 469 (Nev. 1995)
- Alam v. Reno Hilton Corp., 819 F. Supp. 905, 911 (D. Nev. 1993)
- Perrong v. Sperian Energy Corp., 2019 WL 8161573, at *1 (D. Nev. Aug. 26, 2019)
- Board of Trustees of Glazing Health and Welfare Fund v. Z-Glass, 2019 WL 10733033, at *1 (D. Nev. Apr. 3, 2019)
- Ernest Bock, L.L.C. v. Steelman, 2021 WL 4750726, at *2 (D. Nev. Sept. 22, 2021)
- Whittlestone, Inc. v. Handi-Craft Co., 618 F.3d 970, 973 (9th Cir. 2010)
- Russell Road Food & Beverage, LLC v. Galam, 2013 WL 6684631, at *2 (D. Nev. Dec. 17, 2013)
- Cardinale v. La Petite Academy, Inc., 207 F. Supp. 2d 1158, 1162 (D. Nev. 2002)
- Roadhouse v. Las Vegas Metropolitan Police Department, 290 F.R.D. 535, 543 (D. Nev. 2013)

