

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Eunice Allen v. Freedom Mortgage Corp., et al.

Allen · No. 1:25-cv-15839 (KMW-MJS) · Decided December 5, 2025

SUMMARY

The United States District Court for the District of New Jersey denies Eunice Allen’s application to proceed in forma pauperis because her stated monthly income exceeds her expenses. The Court also concludes that the complaint does not state a viable claim under 42 U.S.C. § 1983 because the defendants are private parties and no other federal claim is pleaded. The complaint is dismissed without prejudice, with thirty days granted to amend and pay the filing fee to reopen the case.

CASE DETAILS

COURT	United States District Court for the District of New Jersey
WRITING FOR THE COURT	Karen M. Williams
JURISDICTION	United States District Court for the District of New Jersey
DECIDED	December 5, 2025
DOCKET	1:25-cv-15839 (KMW-MJS)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Pro se plaintiff applied to proceed in forma pauperis and filed a complaint alleging that private defendants violated 42 U.S.C. § 1983 and breached a contract concerning home repairs. The district court denied the IFP application and sua sponte dismissed the complaint without prejudice for failure to establish federal subject matter jurisdiction, while allowing thirty days to amend.
STANDARD OF REVIEW	The court independently reviewed subject matter jurisdiction sua sponte under Federal Rule of Civil Procedure 12(h)(3). It also applied the standard that an IFP applicant must demonstrate inability to pay litigation costs and construed the pro se complaint liberally while requiring compliance with the Federal Rules of Civil Procedure.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court memorandum opinion and order
PARTIES	Eunice Allen v. Freedom Mortgage Corp., First American Solutions, Inspire Closing Services, William Broskey, Esq.

TOPICS

subject matter jurisdiction

section 1983

pleadings

civil procedure

breach of contract

PRACTICE AREAS

civil procedure

federal jurisdiction

civil rights

in forma pauperis

contracts

QUESTIONS PRESENTED

1. Whether Allen demonstrated sufficient indigence to proceed in forma pauperis under 28 U.S.C. § 1915(a)(1).
2. Whether the complaint established federal-question jurisdiction by stating a viable claim under 42 U.S.C. § 1983 or another federal law.
3. Whether the complaint should be dismissed without prejudice for lack of subject matter jurisdiction and whether Allen should receive leave to amend.

HOLDINGS

1. Allen failed to show that she was unable to pay the costs of litigation because her stated monthly income exceeded her monthly expenses; therefore, the IFP application was denied.
2. The complaint did not state a viable claim under 42 U.S.C. § 1983 because it did not allege that any defendant acted under color of state law.
3. The complaint did not establish federal-question jurisdiction because its allegations were, at most, common-law breach-of-contract claims and did not identify a violation of the Constitution, a federal statute, or a treaty.
4. Because the complaint failed to establish subject matter jurisdiction, dismissal without prejudice was required, subject to Allen's opportunity to amend within thirty days.

KEY QUOTATIONS

“need not be absolutely destitute to proceed in forma pauperis”

“establish that [she] is unable to pay the costs of [her] suit”

“private citizens with a means to redress violations of federal law committed by state [actors]”

“federal courts are courts of limited jurisdiction and have an independent obligation to address issues of subject matter jurisdiction sua sponte”

FACTUAL BACKGROUND

Allen alleged that Freedom Mortgage Corp. and the other defendants failed to repair her home, which she had occupied since March 2019. She characterized the conduct as occurring under color of law and also alleged breach of contract based on the failure to complete home repairs. The complaint identified no government official, agency, or government-controlled actor among the defendants. Allen reported monthly employment

income of \$2,000 and monthly expenses of approximately \$1,500, with no other liquid assets, no spouse contributing income or expenses, and one dependent.

PROCEDURAL HISTORY

Allen submitted an application to proceed without prepaying fees or costs and filed a complaint against four private defendants. The court determined that her income exceeded her expenses and that she had not shown inability to pay litigation costs. It further concluded that the complaint did not state a viable federal claim because the defendants were not state actors and that the alleged contract dispute did not independently invoke federal-question jurisdiction. The complaint was dismissed without prejudice, with leave to amend within thirty days.

DISPOSITION

dismissed

REMAND INSTRUCTIONS

No remand. Allen was granted thirty days to file an amended complaint addressing the jurisdictional deficiencies. If she failed to amend, the Clerk was directed to close the case; upon timely amendment, she could submit the \$405 payment to reopen the case.

CASES CITED

- Dowris v. Newtown Borough, Inc., 207 F. App'x 242, 243 (3d Cir. 2006)
- Hurst v. Shalk, 659 F. App'x 133, 134 (3d Cir. 2016)
- Zambelli Fireworks Mfg. Co. v. Wood, 592 F.3d 412, 418 (3d Cir. 2010)
- Lincoln Benefit Life Co. v. AEI Life, LLC, 800 F.3d 99, 104 (3d Cir. 2015)
- Gibson v. Tip Towing & Recovery LLC, No. 23-2919, 2024 WL 658977, at *1 (3d Cir. Feb. 16, 2024)
- Kosch v. Reid, No. CV-12-781-SDW-LDW, 2018 WL 2332250, at *2 (D.N.J. May 23, 2018)
- Woodyard v. Cnty. of Essex, 514 F. App'x 177, 180 (3d Cir. 2013)
- Baker v. McCollan, 443 U.S. 137, 144 n. 3 (1979)
- Deutsche Bank Nat'l Tr. Co. v. Harding, 655 F. App'x 113, 114 (3d Cir. 2016)
- Caterpillar Inc. v. Williams, 482 U.S. 386, 392 (1987)
- Dongon v. Banar, 363 F. App'x 153, 156 (3d Cir. 2010)
- Davis v. Forsdahl, No. 23-2313, 2025 WL 1118629, at *3 (D.N.J. Apr. 15, 2025)

OPINION

ALLEN

PER CURIAM.

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW JERSEY

CAMDEN VICINAGE

| HONORABLE KAREN M. WILLIAMS

EUNICE ALLEN,

Plaintiff, Civil Action y No. 25-15839 (KMW-MIJS)

FREEDOM MORTGAGE CORP. af,

MEMORANDUM OPINION AND

Defendants. ORDER THIS MATTER comes before the Court by way of pro se Plaintiff Eunice Allen's ("Plaintiff") Application to Proceed in District Court Without Prepaying Fees or Costs ("IFP Application") pursuant to 28 U.S.C. § 1915(a)(1); and THE COURT NOTING that, having reviewed Plaintiff's IFP Application (ECF No. 1- 2), Plaintiff declares that she has a monthly income of \$2,000.00 from employment, and has approximately \$1,500.00 in expenses per month, IFP Application fff 1, 8. Plaintiff asserts that she does not have other liquid assets, nor does she have a spouse to contribute income or share in expenses, and she has one dependent. /d. WHEREAS, the Third Circuit has held that an application to proceed without paying filing fees is "based on a showing of indigence," *Dowris v. Newtown Borough, Inc.*, 207 F. App'x 242, 243 (3d Cir. 2006) (citation omitted); and WHEREAS the Court notes that although a person "need not be absolutely destitute to proceed in forma pauperis," Plaintiff must nonetheless, "establish that [she] is unable to pay the costs of [her] suit," *Hurst v. Shalk*, 659 F. App'x 133, 134 Gd Cir. 2016); and THE COURT FINDING that because Plaintiff's monthly expenses do not exceed her monthly income, Plaintiff has failed to demonstrate that she cannot pay the costs of litigation, and thus the Court DENIES the IFP Application; and WHEREAS, federal courts are courts of limited jurisdiction and have an independent obligation to address issues of subject matter jurisdiction sua sponte and may do so at any stage of the litigation. *Zambelli Fireworks Mfg. Ce., Inc. v. Wood*, 592 F.3d 412, 418 Gd Cir. 2010); *Lincoln Ben. Life Co. v. AEILife, LLC*, 800 F.3d 99, 104 (3d Cir. 2015). Ha federal district court determines at any time that it lacks subject matter jurisdiction, the court must dismiss the action. See Fed. R. Civ. P. 12(h)(3). To establish jurisdiction, a pleading must either present a federal claim! or trigger the court's diversity jurisdiction'. See *Gibson v. Tip Towing & Recovery LLC*, No. 23-2919, 2024 WL 658977 at *1 (3d Cir. Feb, 16, 2024), Plaintiff contends that jurisdiction is established pursuant to federal question jurisdiction. In her Complaint (ECF No. 1), Plaintiff alleges a claim under 42 U.S.C. § 1983. Section 1983 does not itself, create any rights, it merely provides "private citizens with a means to redress violations of federal law committed by state [actors]." *Kosch vy. Reid*, No. CV-12781-SDW-LDW, 2018 WL 2332250, at *2 (D.N.J. May 23, 2018); See also *Woodyard □□□ Cty. of Essex*, 514 Fed.Appx. 177, 180 (3d Cir. 2013); see also *Baker v. McCollan*, 443 U.S. 137, 144 n. 3 (1979). To establish a claim under § 1983 a plaintiff must show: 1) defendants' conduct was committed by a person acting under color of state law, and 2) the alleged conduct deprived the plaintiff of rights, ' To assert a federal claim, a pleading must assert an action arising under the Constitution, laws, or treaties of the United States. *Gibson*, 2024 WL 658977 at *1 n.2. The presence or absence of federal question

jurisdiction is governed by the “well-pleaded complaint” rule, which provides that federal jurisdiction exists only when “the face of a properly pleaded complaint asserts a federal question.” *Deutsche Bank Nat’l Tr. Co. vy. Harding*, 655 F. App’x 113, 114 Gd Cir. 2016) (citing *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987)). ? To assert diversity jurisdiction, a pleading must demonstrate complete diversity of citizenship among the parties, (meaning that each defendant must be a citizen of a different state than each plaintiff), with the amount in controversy exceeding \$75,000.00. Gibson, 2024 WL 658977 at privileges, or immunities protected by the Constitution or laws of the United States. Kosch, 2018 WL 2332250, at *2. In this case, there are four named Defendants: 1) Defendant Freedom Mortgage Corp., 2) Defendant First American Solutions, 3} Defendant Inspire Closing Services, and 4) Defendant William Broskey, Esq. (collectively “Defendants”). Plaintiff alleges that “Under color of law, FREEDOM MORTGAGE CORP; et.al., failed to repair I (The Plaintiff's) home that P’ve been in since March 2019.” Compl. at Part I.D. (ECF No. 1.) The Complaint further alleges that Defendants breached their contract with Plaintiff by failing to complete various home repairs. fd. Nothing in the Complaint indicates that any of the Defendants are government officials, agencies, or acting under the control of the government. As such, none of the Defendants can be considered government actors. Private citizens and entities that are not state actors cannot be subject to liability under § 1983. *Dongon v. Banar*, 363 F. App’x 153, 156 (3d Cir. 2010). Therefore, Plaintiffs Complaint does not state a viable claim under §1983. Further, Plaintiffs Complaint does not plausibly point to any other violation of the Constitution or treaty of the United States, nor does it plead any violations of federal law. Plaintiff's Complaint asserts facts that can be construed as common law breach of contract claims, none of which fall under the Constitution or federal law. While the Court has an obligation te construe a pro se litigant’s pleadings to less stringent standards than the formal pleadings drafted by lawyers, this does not “absolve a pro se plaintiff of the need to adhere to the Federal Rules of Civil Procedure,” *Davis v. Forsdahl*, No. 23-2313, 2025 WL 1118629 at *3 (D.N.J. Apr. 15, 2025). As such, the Plaintiff is required to sufficiently establish jurisdiction in her Complaint. However, even construing the facts alleged, nothing in the Complaint amounts to a cognizable federal claim such that the Court may properly exercise jurisdiction’. IT IS HEREBY on this of December, 2025, ORDERED A. Plaintiffs application to proceed in forma pauperis pursuant to 28 U.S.C, §1915 (ECF No. 1-2) is hereby DENIED B. Plaintiff's Complaint No. 1) is DISMISSED WITHOUT PREJUDICE C. Plaintiff has thirty G0) days to amend her pleadings in light of the deficiencies described in this Memorandum Opinion and Order, and if Plaintiff fails to do so, the Court will order the Clerk of Court to close the case; and further D. The clerk is ordered to close the file. Upon filing an Amended Complaint within thirty (30) days, Plaintiff may submit payment in the amount of \$405 to reopen the case without further action from the court E. The Clerk of the Court shall serve a copy of this Order upon Plaintiff by regular ☐☐☐☐ mail. United States District Judge The Court notes that the Plaintiff does not assert that this Court has jurisdiction pursuant to diversity jurisdiction,

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