

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Friend v. Google LLC

Friend · No. 24-cv-03571-SVK · Decided March 3, 2025

SUMMARY

The United States District Court for the Northern District of California denies Donald Friend’s motion under Federal Rule of Civil Procedure 59(e) to alter or amend judgment in his action against Google LLC. The court upholds dismissal without leave to amend based on prudential and Article III standing deficiencies and admonishes Plaintiff for apparently fabricating quotations from cited authorities.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Susan van Keulen
JURISDICTION	United States District Court for the Northern District of California
DECIDED	March 3, 2025
DOCKET	24-cv-03571-SVK
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved under Federal Rule of Civil Procedure 59(e) to alter or amend the judgment dismissing his Third Amended Complaint without leave to amend.
STANDARD OF REVIEW	A Rule 59(e) motion may be granted only in limited circumstances, including to correct manifest errors of law or fact, consider newly discovered or previously unavailable evidence, prevent manifest injustice, or account for an intervening change in controlling law. Granting or denying the motion is within the district court's considerable discretion, and the remedy is extraordinary and to be used sparingly.
PRECEDENTIAL VALUE	unpublished
PARTIES	Donald Friend v. Google LLC

TOPICS

- motion for reconsideration
- standing
- motion to amend
- civil procedure
- breach of contract

PRACTICE AREAS

civil procedure

commercial litigation

contracts

QUESTIONS PRESENTED

1. Whether the court should alter or amend the judgment under Federal Rule of Civil Procedure 59(e).
2. Whether the court committed a manifest error by determining that Friend's alleged injury was derivative of an injury to Dumpsters Direct and therefore deprived him of prudential standing.
3. Whether Friend's characterization as a creditor or independent contractor, rather than an investor, altered the prudential-standing analysis.
4. Whether an error in the court's Article III standing analysis would require amendment of the judgment.
5. Whether the court erred in denying leave to amend.

HOLDINGS

1. The motion to alter or amend the judgment was properly denied because Friend identified no manifest error of law or fact, newly discovered evidence, manifest injustice, or intervening change in controlling law.
2. Friend lacked prudential standing because his alleged injury was derivative of an injury to Dumpsters Direct and necessarily depended on a prior injury to that entity.
3. NAF Holdings did not support Friend's claims because Friend did not sue Google to enforce his own contractual rights; he sued in connection with a contract between Google and Dumpsters Direct to which he was not a party.
4. Even assuming the court erred in its Article III standing analysis, that error would not warrant altering the judgment because the dismissal independently rested on Friend's lack of prudential standing.
5. The court did not err in denying leave to amend because Friend could not cure the prudential-standing deficiency through amendment without fundamentally changing his allegations.

KEY QUOTATIONS

"In general, the Court may grant a Rule 59(e) motion under four circumstances:" (at 1-2)

"Ultimately, granting the motion "is an extraordinary remedy which should be used sparingly," and "the district court enjoys considerable discretion in granting or denying the motion."" (at 2)

"There, the Supreme Court of Delaware held "that a suit by a party to a commercial contract to enforce its own contractual rights is not a derivative action under Delaware law."" (at 4)

"While Plaintiff could provide more allegations in an amended pleading to plausibly tie his injury to Google's fraudulent business listings, no allegations could change the conclusion that the injury is impermissibly derivative." (at 5)

FACTUAL BACKGROUND

Friend alleged that Google permitted fraudulent business listings to remain on its platform, harming a contractual arrangement between Friend and Dumpsters Direct LLC. His alleged injury was derivative of an injury to Dumpsters Direct, and he sued Google for breach of a contract between Google and Dumpsters Direct to which he was not a party. The court concluded that he lacked prudential standing and Article III standing and that amendment could not cure the prudential-standing defect without fundamentally changing his allegations.

PROCEDURAL HISTORY

Donald Friend sued Google over allegedly fraudulent business listings that allegedly impaired a contractual arrangement between Friend and Dumpsters Direct LLC. The court dismissed the Third Amended Complaint without leave to amend and entered judgment because Friend lacked prudential standing and Article III standing. Friend then moved to alter or amend the judgment, arguing that the court erred in dismissing the action without leave to amend. The court denied the motion.

DISPOSITION

other

CASES CITED

- Allstate Ins. Co. v. Herron, 634 F.3d 1101, 1111 (9th Cir. 2011)
- Kona Enters., Inc. v. Est. of Bishop, 229 F.3d 877, 890 (9th Cir. 2000)
- McDowell v. Calderon, 197 F.3d 1253, 1255 n.1 (9th Cir. 1999)
- NAF Holdings, LLC v. Li & Fung (Trading) Ltd., 118 A.3d 175, 179-80, 182 (Del. 2015)
- Broam v. Bogan, 320 F.3d 1023 (9th Cir. 2003)
- United States v. NH, Inc., 124 F.3d 1198 (9th Cir. 1997)
- United States v. Rockwell International Corp., 124 F.3d 1194 (10th Cir. 1997)
- Shell Petroleum, N.V. v. Graves, 709 F.2d 593 (9th Cir. 1983)
- Pareto v. FDIC, 139 F.3d 696 (9th Cir. 1998)
- Greene v. Discover Bank, No. 23-cv-04825-SVK, 2024 WL 85872, at *2 n.1 (N.D. Cal. Jan. 8, 2024)

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