

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
KENTUCKY

Katy Kelly LLC v. Thrivent Investment Management Inc.

Katy Kelly · No. 5:25-284-DCR · Decided February 20, 2026

SUMMARY

The United States District Court for the Eastern District of Kentucky granted Thrivent Investment Management Inc.'s motion for judgment on the pleadings in an action by Katy Kelly LLC alleging negligent trespass and seeking declaratory relief. The court held that the complaint failed to plausibly allege lack of consent, a cognizable duty, causation, or a viable agency relationship. The court declined to exercise jurisdiction over the duplicative declaratory judgment claim and dismissed the action with prejudice.

CASE DETAILS

COURT	United States District Court for the Eastern District of Kentucky
WRITING FOR THE COURT	Danny C. Reeves
JURISDICTION	United States District Court for the Eastern District of Kentucky
DECIDED	February 20, 2026
DOCKET	5:25-284-DCR
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant moved for judgment on the pleadings under Federal Rule of Civil Procedure 12(c).
STANDARD OF REVIEW	A Rule 12(c) motion is evaluated under the same standard as a Rule 12(b)(6) motion. The court accepts well-pleaded factual allegations as true and determines whether the complaint states a plausible claim for relief. Review is generally limited to the pleadings, attachments, documents referred to in the complaint and central to the claims, and matters of public record.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion; precedential status not stated

TOPICS

- motion for judgment on the pleadings
- trespass
- pleadings
- civil procedure
- commercial litigation

PRACTICE AREAS

civil procedure

torts

real estate

commercial litigation

QUESTIONS PRESENTED

1. Whether the complaint plausibly stated a negligent trespass claim under Kentucky law.
2. Whether the complaint plausibly alleged that Thrivent owed a duty, lacked consent to the alleged entry or sign placement, caused the alleged harm, or was vicariously liable for Gardiner's conduct.
3. Whether the court should exercise jurisdiction under the Declaratory Judgment Act when the declaratory claim duplicated the failed negligent trespass claim.

HOLDINGS

1. The complaint failed to state a plausible negligent trespass claim because it did not adequately allege lack of consent, a cognizable duty owed by Thrivent, or causation linking Thrivent to the sign and the alleged property damage.
2. The complaint failed to plausibly allege that Gardiner acted as Thrivent's employee or agent, that Thrivent was vicariously liable for Gardiner's conduct, or that Gardiner possessed apparent authority binding Thrivent.
3. The court declined to exercise jurisdiction over the declaratory judgment claim because it duplicated the failed negligent trespass claim and no justiciable controversy remained.

KEY QUOTATIONS

“A motion for judgment on the pleadings under Rule 12(c) is evaluated using the same standard that applies to motions to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure.”

“Such ‘formulaic recitation’ of elements does not satisfy federal pleading standards.”

FACTUAL BACKGROUND

Katy Kelly owned a historic property in Versailles, Kentucky, where it alleged Thrivent conducted business and occupied space. It alleged that a sign associated with Thrivent or its representative damaged the property and threatened historic tax credits and potential regulatory fines. Katy Kelly also alleged that Thrivent refused to vacate or pay the amount demanded and asserted that Duncan Gardiner was Thrivent's employee or agent. The complaint asserted negligent trespass and sought declaratory relief concerning occupancy, contractual rights, the sign, damages, and Gardiner's authority.

PROCEDURAL HISTORY

Katy Kelly filed suit against Thrivent alleging negligent trespass and seeking declaratory relief concerning the parties' property and contractual rights. Thrivent moved for judgment on the pleadings. The court granted the motion and dismissed the complaint with prejudice.

DISPOSITION

dismissed

CASES CITED

- Oakland Tactical Supply, LLC v. Howell Township, 103 F.4th 1186, 1191 (6th Cir. 2024)
- Warrior Sports, Inc. v. NCAA, 623 F.3d 281, 284 (6th Cir. 2010)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555, 556, 570 (2007)
- Saalim v. Walmart, Inc., 97 F.4th 995, 1002 (6th Cir. 2024)
- Greenberg v. Life Ins. Co. of Virginia, 177 F.3d 507, 514 (6th Cir. 1999)
- Bradford v. Clifton, 379 S.W.2d 249, 250 (Ky. 1964)
- Rockwell Int'l Corp. v. Wilhite, 143 S.W.3d 604, 619-20 (Ky. Ct. App. 2003)
- Hayes v. D.C.I. Props.-D KY, LLC, 563 S.W.3d 619, 622 (Ky. 2018)
- Hill v. Jones, No. 5:18-CV-511, 2019 WL 4455982, at *3 (E.D. Ky. Sept. 17, 2019)
- Snider v. Jesse, No. 3:23-CV-486-RGJ-RSE, 2025 WL 1557041, at *5 (W.D. Ky. June 2, 2025)
- Hamilton v. P.B. Stratton Fam. P'ship, 709 S.W.3d 287, 315 (Ky. App. 2024)
- Schilling v. Schoenle, 782 S.W.2d 630, 633 (Ky. 1990)
- Williams v. Kentucky Dep't of Educ., 113 S.W.3d 145, 151 (Ky. 2003)
- Mark D. Dean, P.S.C. v. Commonwealth Bank & Tr. Co., 434 S.W.3d 489, 499 (Ky. 2014)
- Ashland Hosp. Corp. v. RLI Ins. Co., No. 13-143-DLB-EBA, 2015 U.S. Dist. LEXIS 33775, at *38 (E.D. Ky. Mar. 17, 2015)
- Wilton v. Seven Falls Co., 515 U.S. 277, 288 (1995)