

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Bernstein v. Banco Popular North America

No. 25-cv-02204-BLF (N.D. Cal. July 22, 2025) · No. 25-cv-02204-BLF · Decided July 22, 2025

SUMMARY

The United States District Court for the Northern District of California held that it lacked subject matter jurisdiction over Plaintiffs’ claims arising from a homeowners association assessment and foreclosure proceedings. The court found no diversity jurisdiction because Plaintiffs and Defendant Berding & Weil LLP were California citizens, and no federal question jurisdiction because all claims arose under state law. The court granted the motion to dismiss for lack of subject matter jurisdiction, terminated other pending motions as moot, and dismissed the case without prejudice to refiling in state court.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Beth Labson Freeman
JURISDICTION	United States District Court for the Northern District of California
DECIDED	July 22, 2025
DOCKET	25-cv-02204-BLF
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiffs filed a diversity action asserting fourteen state-law causes of action arising from a homeowners association assessment and threatened foreclosure. Defendant Berding & Weil LLP moved to dismiss under Federal Rules of Civil Procedure 12(b)(1), 12(b)(6), and 12(e). The court granted the Rule 12(b)(1) motion and dismissed the case without prejudice for lack of subject matter jurisdiction.
STANDARD OF REVIEW	For a facial Rule 12(b)(1) challenge, the court determines whether the complaint's allegations are sufficient on their face to invoke federal jurisdiction, accepting material allegations as true and construing them in favor of the party asserting jurisdiction. For a factual challenge, the court may consider extrinsic evidence without converting the motion into one for summary judgment, and the plaintiff bears the burden of establishing jurisdiction.

TOPICS

subject matter jurisdiction

motions to dismiss

civil procedure

wrongful foreclosure

real estate

PRACTICE AREAS

civil procedure

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commercial litigation

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QUESTIONS PRESENTED

1. Whether the court had diversity-of-citizenship jurisdiction under 28 U.S.C. § 1332 when Plaintiffs and Defendant Berding & Weil LLP were California citizens.
2. Whether the complaint presented a federal question when all fourteen asserted causes of action arose under state law.
3. Whether the court should reach Defendant's Rule 12(b)(6) and Rule 12(e) arguments after determining that subject matter jurisdiction was lacking.

HOLDINGS

1. The court lacked diversity jurisdiction because complete diversity was absent: Plaintiffs and Berding & Weil LLP were citizens of California.
2. The court lacked federal-question jurisdiction because Plaintiffs asserted no federal claims; all fourteen claims arose under state law.
3. After determining that subject matter jurisdiction was absent, the court could not proceed to the remaining Rule 12(b)(6) and Rule 12(e) arguments and terminated the other motions as moot.

KEY QUOTATIONS

“Federal courts can adjudicate only those cases which the Constitution and Congress authorize them to adjudicate: those involving diversity of citizenship or a federal question, or those to which the United States is a party.” (Section II)

“Because the Court finds that there is no subject matter jurisdiction, “it can proceed no further and must dismiss the case on that account.”” (Section III.A)

FACTUAL BACKGROUND

Plaintiffs owned a condominium property in the Meadowbrook Village Homeowners Association in Fremont, California. The Association levied an assessment intended to fund emergency repairs and repay a roughly \$4 million loan from Banco Popular North America; Plaintiffs did not pay their approximately \$33,625 share. The Association then initiated foreclosure proceedings through a notice of default and election to sell under a property association lien. Plaintiffs filed suit asserting fourteen causes of action, all arising under state law.

PROCEDURAL HISTORY

Plaintiffs commenced the action on March 4, 2025, alleging diversity jurisdiction under 28 U.S.C. § 1332. Berding & Weil moved to dismiss for lack of subject matter jurisdiction, failure to state a claim, and failure to provide a more definite statement. The court vacated the scheduled hearing, granted dismissal under Rule 12(b)(1), terminated the other pending motions as moot, and dismissed the complaint without prejudice to refiling in state court.

DISPOSITION

dismissed

REMAND INSTRUCTIONS

No remand was ordered. The case was dismissed without prejudice to refiling in state court.

CASES CITED

- Mims v. Arrow Fin. Servs., LLC, 565 U.S. 368, 376–77 (2012)
- Chen-Cheng Wang ex rel. United States v. FMC Corp., 975 F.2d 1412, 1415 (9th Cir. 1992)
- Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994)
- Safe Air for Everyone v. Meyer, 373 F.3d 1035, 1039 (9th Cir. 2004)
- Warth v. Seldin, 422 U.S. 490, 501 (1975)
- St. Clair v. City of Chico, 880 F.2d 199, 201 (9th Cir. 1989)
- Savage v. Glendale Union High Sch. Dist. No. 205, 343 F.3d 1036, 1040 n.2 (9th Cir. 2003)
- Matao Yokeno v. Sawako Sekiguchi, 754 F.3d 649, 652 (9th Cir. 2014)
- Hertz Corp. v. Friend, 559 U.S. 77, 80–81 (2010)
- Hofmann v. Virgin Am. Inc., No. 16-CV-05178-BLF, 2017 WL 1373850, at *2 (N.D. Cal. Apr. 14, 2017)
- Sinochem Int'l Co. v. Malaysia Int'l Shipping Corp., 549 U.S. 422, 434 (2007)
- Grupo Dataflux v. Atlas Glob. Grp., L.P., 541 U.S. 567, 570, 124 S. Ct. 1920, 1924, 158 L. Ed. 2d 866 (2004)