

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Mara Finch v. Block Incorporated, et al.

No. CV-25-04247-PHX-JJT (D. Ariz. Feb. 4, 2026) · No. No. CV-25-04247-PHX-JJT · Decided February 4, 2026

SUMMARY

The United States District Court for the District of Arizona addresses Plaintiff Mara Finch’s motion to remand, motions to dismiss, motion to stay, motion to strike, motion for an extension of time, and sur-reply. The court denies remand, finding federal-question jurisdiction based on the Electronic Fund Transfer Act claim and supplemental jurisdiction over related state-law claims. It denies the motion to stay and motion to strike, grants McDonald’s request for an extension, strikes the improper sur-reply, and proceeds to evaluate dismissal under Federal Rule of Civil Procedure 12(b)(6), including the two-dismissal rule and claim preclusion.

CASE DETAILS

COURT	United States District Court for the District of Arizona
WRITING FOR THE COURT	John J. Tuchi
JURISDICTION	United States District Court for the District of Arizona
DECIDED	February 4, 2026
DOCKET	No. CV-25-04247-PHX-JJT
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved to remand an action removed from Maricopa County Superior Court. Defendants moved to dismiss under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). The court denied remand, exercised federal-question and supplemental jurisdiction, dismissed most claims with leave to amend, dismissed the criminal-statute claim with prejudice, and allowed one Arizona Consumer Fraud Act claim against Block to proceed.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepted well-pleaded factual allegations as true and construed them in the light most favorable to the plaintiff, while disregarding legal conclusions and conclusory allegations. The court applied Rule 9(b)'s heightened pleading standard to fraud and Arizona Consumer Fraud Act claims. It reviewed removal jurisdiction de novo insofar as jurisdiction was contested and placed

	the burden of establishing subject-matter jurisdiction on the removing party.
PRECEDENTIAL VALUE	unpublished
PARTIES	Mara Finch v. Block Incorporated, McDonald's USA, LLC

TOPICS

motions to dismiss

subject matter jurisdiction

civil procedure

consumer protection

pleadings

PRACTICE AREAS

civil procedure

consumer protection

contracts

torts

electronic fund transfers

QUESTIONS PRESENTED

1. Whether the federal court possessed removal jurisdiction based on Finch's EFTA claim and supplemental jurisdiction over related state-law claims.
2. Whether the removal was procedurally defective because counsel had not filed a state-court notice of appearance, McDonald's had not separately consented in writing, or Finch was allegedly confused or prejudiced by removal.
3. Whether the court should decline supplemental jurisdiction because the state-law claims allegedly predominated over the federal claim.
4. Whether the two-dismissal rule and claim preclusion barred the action based on Finch's two prior voluntary dismissals in state court.
5. Whether Finch adequately pleaded claims for violation of the EFTA, breach of contract, fraud, Arizona Consumer Fraud Act violations, defamation, negligence or gross negligence, unjust enrichment, and violation of A.R.S. § 13-2311.
6. Whether McDonald's established excusable neglect warranting an extension of time to file its late reply.

HOLDINGS

1. The court had federal-question jurisdiction because the operative complaint asserted an EFTA claim, and it properly exercised supplemental jurisdiction over the related state-law claims because they shared a common nucleus of operative fact with the federal claim.
2. Removal was not procedurally defective merely because defense counsel had not filed a separate state-court notice of appearance or because McDonald's had not filed a separate written consent document.
3. The court declined to apply Arizona's two-dismissal rule or claim preclusion to bar the action because the prior filings were prompt, substantially identical filings by a pro se litigant that functioned as amendments rather than a vexatious litigation scheme, and applying preclusion would create manifest injustice.

4. Finch failed to state an EFTA claim because she did not allege that Block was a financial institution subject to EFTA liability, but the court granted leave to amend.
5. Finch failed to state breach-of-contract claims against either defendant because she did not adequately identify a contract, its terms, the breach, or resulting damages; leave to amend was granted.
6. Finch failed to plead fraud with the particularity required by Rule 9(b), and the claim was dismissed against both defendants with leave to amend.
7. The ACFA claim against Block survived dismissal, while the ACFA claim against McDonald's was dismissed with leave to amend.
8. Finch failed to plead actionable defamation because she did not identify the allegedly defamatory statements, their publication to third parties, or sufficient facts showing that McDonald's silence implied objectively verifiable defamatory facts; the claim was dismissed against both defendants with leave to amend.
9. Finch failed to plausibly allege that either defendant owed her a legal duty or breached one, and the negligence claims were dismissed with leave to amend.
10. The court declined to dismiss Finch's unjust-enrichment claim against McDonald's on the ground that a viable contract remedy would preclude unjust enrichment, because the complaint did not adequately allege a contract with McDonald's.
11. Finch could not maintain a private civil claim under A.R.S. § 13-2311, and the claim was dismissed with prejudice because the criminal statute provides no private cause of action and does not apply to these defendants.
12. McDonald's demonstrated excusable neglect under Rule 6(b)(1)(B), and the court granted its motion for an extension of time to file a reply submitted three days late.

KEY QUOTATIONS

“A state law claim is part of the same case or controversy when it shares a common nucleus of operative fact with the federal claims and the state and federal claims would normally be tried together.” (at 4)

“These state court filings are tantamount to an amendment of her pleadings.” (at 16)

“Plaintiff fails to state the essential elements of § 1693f; specifically, that Defendant Block is a financial institution that is subject to EFTA scrutiny, and dismissal of the EFTA claim is warranted.” (at 18)

“The Court makes the general observation that Plaintiff appears to be using artificial intelligence to draft her pleadings and briefs” (at 30)

FACTUAL BACKGROUND

The action arose from a \$77.01 transaction charged to Finch's bank account after she abandoned an attempted McDonald's drive-through purchase. McDonald's later characterized the transaction as a store error and offered an in-store refund, which Finch declined because she was no longer near the store. Finch disputed the transaction with Block through Cash App, but Block denied the dispute; Finch alleged that the transaction deprived her of money needed for medication and caused anxiety, a panic attack, and a mild seizure.

PROCEDURAL HISTORY

Finch filed three substantially identical actions in Arizona state court and voluntarily dismissed the first two. She filed the third action in Maricopa County Superior Court, asserting claims under the Electronic Fund Transfer Act, Arizona contract and tort law, the Arizona Consumer Fraud Act, and an Arizona criminal statute. Block removed the action based on the federal EFTA claim and asserted supplemental jurisdiction over the state claims. The district court denied remand, granted in part and denied in part the defendants' motions to dismiss, granted McDonald's motion for an extension of time, denied Finch's other motions, and struck her sur-reply.

DISPOSITION

other

REMAND INSTRUCTIONS

The court denied remand. Plaintiff was given fourteen days from the date of the order to file an amended complaint amending some or all of Counts One through Six. If no amendment was filed, the parties were directed to address whether the remaining state-law claims should be remanded under 28 U.S.C. § 1367(c)(3).

CASES CITED

- Cousins v. Lockyer, 568 F.3d 1063, 1067 (9th Cir. 2009)
- Valdez v. Allstate Ins. Co., 372 F.3d 1115, 1116 (9th Cir. 2004)
- Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992)
- Walker v. Arizona, 158 F.4th 971, 980-81 (9th Cir. 2025)
- Kane v. Bosco, No. 10-cv-01787-PHX-JAT, 2010 U.S. Dist. LEXIS 128746, at *14 (D. Ariz. Nov. 23, 2010)
- Mason v. Utley, 259 F.2d 484, 485 (9th Cir. 1958)
- Proctor v. Vishay Intertechnology Inc., 584 F.3d 1208, 1225 (9th Cir. 2009)
- Bahrapour v. Lampert, 356 F.3d 969, 978 (9th Cir. 2004)
- Olewin v. Nobel Mfg., LLC, 523 P.3d 413, 420 (Ariz. Ct. App. 2023)
- Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280, 293 (2005)
- Supermail Cargo, Inc. v. United States, 68 F.3d 1204, 1206 n.2 (9th Cir. 1995)
- Lake at Las Vegas Inv'rs Grp. v. Pac. Malibu Dev. Corp., 933 F.2d 724, 727 (9th Cir. 1991)
- TCW Special Credits v. Fishing Vessel Chloe Z, No. 99-15136, 2000 U.S. App. LEXIS 23213, at *3-4 (9th Cir. Sept. 8, 2000)
- Ferretti v. Beach Club Maui, Inc., No. 18-00012 JMS-RLP, 2018 U.S. Dist. LEXIS 103950, at *6 (D. Haw. June 21, 2018)
- Rose Court, LLC, 119 F.4th 685
- In Re Joan K. Hall and Stanley E. Lalli, a minor child, Petitioners/Appellants, v. Joseph A. Lalli, Respondent/Appellee, Hall v. Lalli, 977 P.2d 776, 779 (Ariz. 1999)
- Sanford v. MemberWorks, Inc., 625 F.3d 550, 560 (9th Cir. 2010)

- Simone v. M & M Fitness LLC, No. CV-16-01229-PHX-JJT, 2017 U.S. Dist. LEXIS 54480, at *4 (D. Ariz. Apr. 10, 2017)
- In re Easysaver Rewards Litig., 737 F. Supp. 2d 1159, 1182 (S.D. Cal. 2010)
- Nordberg v. Trilegiant Corp., 445 F. Supp. 2d 1082, 1095 (N.D. Cal. 2006)
- Saldate v. Apple Inc., No. CV-24-02796-PHX-SPL, 2025 U.S. Dist. LEXIS 69465, at *8 (D. Ariz. Apr. 11, 2025)
- Tristan v. Bank of Am., SACV2201183DOCADS, 2023 U.S. Dist. LEXIS 111961, at *33-35 (C.D. Cal. June 28, 2023)
- Zepeda v. PayPal, Inc., C 10-1668 SBA, 2017 U.S. Dist. LEXIS 43672, at *33-34 (N.D. Cal. Mar. 24, 2017)
- Navarro v. Block, 250 F.3d 729, 732 (9th Cir. 2001)
- Balistreri v. Pacifica Police Department, 901 F.2d 696, 699 (9th Cir. 1990)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-56, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-80 (2009)
- Intri-Plex Techs., Inc. v. Crest Grp., Inc., 499 F.3d 1048, 1052 (9th Cir. 2007)
- Cook, Perkiss & Liehe, Inc. v. N. Cal. Collection Serv., 911 F.2d 242, 247 (9th Cir. 1990)
- Steinberger v. McVey, 318 P.3d 419, 434 (Ariz. Ct. App. 2014)
- Beaulieu v. Nat'l Mobility Elder Care Inc., No. CV-23-00428-PHX-GMS, 2025 LX 434714, at *5 (D. Ariz. Mar. 26, 2025)
- Williamson v. Allstate Ins. Co., 204 F.R.D. 641, 644 (D. Ariz. 2001)
- Lopez v. Smith, 203 F.3d 1122, 1130 (9th Cir. 2000)
- Holeman v. Neils, 803 F. Supp. 237, 242 (D. Ariz. 1992)
- Shaw v. CTVT Motors, Inc., 300 P.3d 907, 910 (Ariz. Ct. App. 2013)
- Rowland v. Union Hills Country Club, 757 P.2d 105, 110 (Ariz. Ct. App. 1988)
- Boswell v. Phx. Newspapers, 730 P.2d 178, 183 n.4 (Ariz. Ct. App. 1985)
- Turner v. Devlin, 848 P.2d 286, 288-89 (Ariz. 1993)
- Yetman v. English, 811 P.2d 323, 333 n.7 (Ariz. 1991)
- Wright v. Mailatyar, 2023 Ariz. Super. LEXIS 273, at *2 (Ariz. Sup. Ct. July 18, 2023)
- Hobbs v. Oppenheimer, No. CV-22-00290-TUC-JCH, 2022 U.S. Dist. LEXIS 205138, at *9 (D. Ariz. Nov. 9, 2022)
- Wells Fargo Credit Corp. v. Smith, 803 P.2d 900, 905 (Ariz. Ct. App. 1990)
- Sullivan v. Pulte Home Corp., 306 P.3d 1, 2 (Ariz. 2013)
- Quiroz v. ALCOA Inc., 416 P.3d 824, 827-30, 838, 840 (Ariz. 2018)
- Chen v. Cozzoli LLC, No. CV-21-01025-PHX-DWL, 2022 U.S. Dist. LEXIS 182567, at *19-20 (D. Ariz. Oct. 5, 2022)
- Bailey v. Ariz. Bd. of Regents, No. CV-23-00557-TUC-AMM (LCK), 2024 LX 26183, at *22 (D. Ariz. Sept. 30, 2024)
- State v. Lamberton, 899 P.2d 939, 941-42 (Ariz. 1995)
- Garcia v. GMAC Mortgage, LLC, 2009 U.S. Dist. LEXIS 77909, at *1 (D. Ariz. Aug. 31, 2009)

- Doe v. Dickenson, 2008 U.S. Dist. LEXIS 95604, at *5 (D. Ariz. Nov. 13, 2008)
- Pioneer Investment Services Co. v. Brunswick Associates Limited Partnership, 507 U.S. 380, 392, 395 (1993)
- Pincay v. Andrews, 389 F.3d 853, 859 (9th Cir. 2004)
- Iopa v. Saltchuk-Young Bros., Ltd., 916 F.3d 1298, 1301 (9th Cir. 2019)

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