

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Short v. ZBS Law LLP

No. 24-cv-07908-RFL, United States District Court for the Northern District of California (September 3, 2025)

SUMMARY

The United States District Court for the Northern District of California denies Wilton Short’s motion for leave to file a Second Amended Complaint in a foreclosure-related action. The court concludes that the proposed state-law claims would not establish diversity or federal-question jurisdiction, declines supplemental jurisdiction, and finds amendment futile; the previously dismissed claims remain dismissed with prejudice and the case is closed.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Rita F. Lin
JURISDICTION	United States District Court for the Northern District of California
DECIDED	September 3, 2025
DOCKET	24-cv-07908-RFL
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for leave to file a Second Amended Complaint after the First Amended Complaint had been dismissed with leave to amend. The court denied leave to amend because the proposed amendment would be futile for lack of subject matter jurisdiction.
STANDARD OF REVIEW	Leave to amend is generally freely given when justice so requires, but denial is proper when the proposed amendment would be futile. The court assessed futility based on the proposed pleading's failure to establish subject matter jurisdiction.
PRECEDENTIAL VALUE	Unpublished district court order; persuasive rather than binding precedent.
PARTIES	Wilton C. Short v. ZBS Law LLP, et al.

TOPICS

- motion to amend
- subject matter jurisdiction
- civil procedure
- foreclosure
- real estate

PRACTICE AREAS

Civil procedure

Federal jurisdiction

Real estate foreclosure

QUESTIONS PRESENTED

1. Whether leave to file the proposed Second Amended Complaint should be granted when the proposed pleading fails to establish diversity jurisdiction.
2. Whether the proposed state-law claims independently support federal-question jurisdiction.
3. Whether the court should exercise supplemental jurisdiction over the proposed state-law claims based on previously dismissed federal claims.

HOLDINGS

1. The proposed Second Amended Complaint did not establish diversity jurisdiction because Short failed to plead the citizenship of ZBS Law LLP's members, and the record indicated that at least its managing partner was a California citizen.
2. The proposed claims did not support federal-question jurisdiction because, even when liberally construed, none arose under the Constitution, laws, or treaties of the United States.
3. Leave to amend was denied because the court would lack subject matter jurisdiction over the proposed Second Amended Complaint, making the amendment futile.

KEY QUOTATIONS

“Because the Court would lack subject matter jurisdiction over the Proposed SAC, amendment would be futile, and leave to amend is DENIED.”

“Because there will be no amendment, the previously dismissed claims in the First Amended Complaint shall remain dismissed with prejudice (see Dkt. No. 52 at 9-10), and the case will be closed.”

FACTUAL BACKGROUND

Short's proposed Second Amended Complaint asserted new state-law claims related to a foreclosure and alleged that he was a California citizen. It alleged that ZBS Law LLP had its principal place of business in California but did not allege the citizenship of the LLP's members. Short conceded that diversity had not been adequately pleaded, and a declaration stated that ZBS Law's managing partner was a California citizen.

PROCEDURAL HISTORY

The court previously dismissed Short's First Amended Complaint, which asserted federal and state claims arising from a foreclosure, for failure to state a claim, with leave to amend subject to prior court approval for new claims. Short then sought leave to file a Second Amended Complaint asserting only new state-law claims and alleging diversity jurisdiction. After supplemental briefing, Short conceded that he had not pleaded the citizenship of ZBS Law LLP's members. The court concluded that diversity and federal-question jurisdiction were absent, declined supplemental jurisdiction, denied leave to amend, left the previously dismissed claims dismissed with prejudice, and ordered the case closed.

DISPOSITION

other

CASES CITED

- Carden v. Arkoma Assoc., 494 U.S. 185, 195–96 (1990)
- In re Dynamic Random Access Memory (DRAM) Antitrust Litig., 546 F.3d 981, 990 (9th Cir. 2008)

OPINION

Short v. ZBS Law LLP

PER CURIAM.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

WILTON C. SHORT, Case No. 24-cv-07908-RFL Plaintiff,

ORDER DENYING MOTION TO FILE

v. SECOND AMENDED COMPLAINT

ZBS LAW LLP, et al., Re: Dkt. No. 59 Defendants. The Court previously dismissed Plaintiff Wilton Short’s First Amended Complaint, which asserted a variety of federal and state law claims related to a foreclosure, for failure to state a claim. (Dkt. No. 52.) Dismissal was with leave to amend, but Short was instructed that he must seek leave prior to asserting any new claims. (Id. at 9–10.) Short now seeks leave to file a Second Amended Complaint (“Proposed SAC”), in which he asserts new state law claims and no federal claims. (Dkt. No. 59.) The Proposed SAC asserts that the Court has diversity jurisdiction over the case under 28 U.S.C. § 1332. (Dkt. No. 59-1 at ¶ 1.) The Proposed SAC alleges that Short is a citizen of California. (Id.) Defendant ZBS Law, LLP is alleged to have its “principal place of business in California.” (Id.) The Court ordered supplemental briefing on whether, if amendment were granted, diversity jurisdiction would exist over the action. (Dkt. No. 65.) In response, the parties agree that that diversity has not been pled by Short in the Proposed SAC. (Dkt. No. 67 at 1; Dkt. No. 66 at 4.) Specifically, Short concedes that he has not alleged that ZBS Law is a diverse party because he did not allege the citizenship of ZBS Law’s members. (Dkt. No. 67 at 1); see also See Carden v. Arkoma Assoc., 494 U.S. 185, 195–96 (1990) (explaining that the citizenship of a limited liability partnership for diversity purposes is determined by examining the citizenship of each member of the partnership). Defendants submitted a declaration from a ZBS Law employee declaring, under penalty of perjury, that its managing partner is a citizen of California. (Dkt. No. 66-1 §] 1, 30.) Therefore, because Short has not pled that all Defendants are diverse from him, diversity jurisdiction would not exist over the Proposed SAC. 28 U.S.C. § 1332. Neither is there jurisdiction under 28 U.S. Code § 1331 because, even when liberally construed, none of Short’s claims arise “under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. Moreover, the Court declines to exercise

supplemental jurisdiction under 28 U.S.C. § 1367(c) based on the previous assertion of now-dismissed federal claims, given the early stage of the case and the substantial predominance of state law claims. Leave to amend is to be freely given “when justice so requires” (Fed. R. Civ. P. 15), but court properly exercises its discretion in denying leave to amend if the proposed amendment would be futile.” In re Dynamic Random Access Memory (DRAM) Antitrust Litig., 546 F.3d 981, 990 (9th Cir. 2008). Because the Court would lack subject matter jurisdiction over the Proposed SAC, amendment would be futile, and leave to amend is DENIED. Because there will be no amendment, the previously dismissed claims in the First Amended Complaint shall remain dismissed with prejudice (see Dkt. No. 52 at 9-10), and the case will be closed. IT IS SO ORDERED. Dated: September 3, 2025 Z

RITA F. LIN

United States District Judge