

**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)

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