

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Filippatos v. United States

Filippatos · No. 2:24-cv-11080 (BRM) (AME) · Decided December 30, 2025

SUMMARY

The United States District Court for the District of New Jersey grants the Government’s Rule 12(b)(1) motion to dismiss John Filippatos’s complaint without prejudice. The court holds that the plaintiff’s defamation claims against the United States are barred by the Federal Tort Claims Act’s intentional-tort exception and therefore fall outside the court’s subject-matter jurisdiction. The court declines to consider additional claims raised for the first time in opposition to the motion to dismiss.

CASE DETAILS

COURT	United States District Court for the District of New Jersey
WRITING FOR THE COURT	Brian R. Martinotti
JURISDICTION	United States District Court for the District of New Jersey
DECIDED	December 30, 2025
DOCKET	2:24-cv-11080 (BRM) (AME)
DISPOSITION	dismissed
PROCEDURAL POSTURE	The United States moved under Federal Rule of Civil Procedure 12(b)(1) to dismiss Filippatos's complaint alleging defamation by a United States Postal Service employee. The court granted the motion and dismissed the complaint without prejudice for lack of subject matter jurisdiction.
STANDARD OF REVIEW	On a facial Rule 12(b)(1) challenge, the court considers the complaint's allegations and documents referenced in or attached to the complaint, accepts factual allegations as true, and draws inferences in the plaintiff's favor. The plaintiff bears the burden of establishing subject matter jurisdiction when jurisdiction is challenged.
PRECEDENTIAL VALUE	unpublished and nonprecedential
PARTIES	John Filippatos v. United States of America

TOPICS

- motions to dismiss
- subject matter jurisdiction
- defamation
- civil procedure

PRACTICE AREAS

Federal Tort Claims Act

sovereign immunity

federal civil procedure

defamation

QUESTIONS PRESENTED

1. Whether the Federal Tort Claims Act waives the United States' sovereign immunity for Filippatos's defamation claims.
2. Whether the court had subject matter jurisdiction over the complaint under the Federal Tort Claims Act.
3. Whether claims asserted for the first time in opposition papers could be considered as part of the complaint.

HOLDINGS

1. The Federal Tort Claims Act does not waive the United States' sovereign immunity for defamation or slander claims, including claims arising out of those torts.
2. Because the complaint's defamation claims were barred by the FTCA's intentional-tort exception, the court lacked subject matter jurisdiction and was required to dismiss the action without prejudice.
3. The court would not consider claims for intentional infliction of emotional distress or negligent supervision asserted solely in opposition to the motion to dismiss because a complaint may not be amended through briefing.

KEY QUOTATIONS

“As sovereign, the United States is immune from suit unless it consents to be sued.” (Section III)

“Because Plaintiff’s defamation claims fall within the intentional torts exception to the FTCA, this Court lacks jurisdiction over the claims and the Complaint is dismissed in its entirety.” (Section III)

FACTUAL BACKGROUND

John Filippatos alleged that John Kessler, a United States Postal Service postmaster, made false and defamatory statements about him to neighbors and in emails, including statements that Filippatos had threatened to kill a mail carrier and was intoxicated. Filippatos alleged that the statements caused reputational harm, emotional distress, embarrassment, and mental anguish. He sought damages from the United States based on conduct allegedly undertaken within the scope of Kessler's employment.

PROCEDURAL HISTORY

Filippatos previously filed related claims in New Jersey Superior Court; the United States removed that action under 28 U.S.C. § 2679(d)(2), and this court dismissed it with prejudice for failure to exhaust administrative remedies under the Federal Tort Claims Act. After the court denied relief from that judgment, Filippatos filed this new action on December 11, 2024. The Government moved to dismiss, and the court granted the motion without prejudice.

DISPOSITION

dismissed

CASES CITED

- Phillips v. County of Allegheny, 515 F.3d 224, 228 (3d Cir. 2008)
- In re Burlington Coat Factory Securities Litigation, 114 F.3d 1410, 1426 (3d Cir. 1997)
- Shaw v. Digital Equipment Corp., 82 F.3d 1194, 1220 (1st Cir. 1996)
- Commonwealth of Pennsylvania ex rel. Zimmerman v. PepsiCo, Inc., 836 F.2d 173, 181 (3d Cir. 1988)
- Car Carriers, Inc. v. Ford Motor Co., 745 F.2d 1101, 1107 (7th Cir. 1984)
- Dickerson v. Bank of America, N.A., Civ. A. No. 12-3922, 2013 WL 1163483, at *1 (D.N.J. Mar. 19, 2013)
- Corestates Trust Fee Litigation, 837 F. Supp. 104, 105 (E.D. Pa. 1993)
- Maertín v. Armstrong World Industries, Inc., 241 F. Supp. 2d 434, 445 (D.N.J. 2002)
- New Hope Books, Inc. v. Farmer, 82 F. Supp. 2d 321, 324 (D.N.J. 2000)
- Davis v. Wells Fargo, 824 F.3d 333, 346 (3d Cir. 2016)
- Petruska v. Gannon University, 462 F.3d 294, 302 n.3 (3d Cir. 2006)
- Gould Electronics, Inc. v. United States, 220 F.3d 169, 176 (3d Cir. 2000)
- Constitution Party of Pennsylvania v. Aichele, 757 F.3d 347, 358 (3d Cir. 2014)
- Mortensen v. First Federal Savings & Loan Association, 549 F.2d 884, 891 (3d Cir. 1977)
- International Association of Machinists & Aerospace Workers v. Northwest Airlines, Inc., 673 F.2d 700, 711 (3d Cir. 1982)
- Estelle v. Gamble, 429 U.S. 97, 106 (1976)
- Higgins v. Beyer, 293 F.3d 683, 688 (3d Cir. 2002)
- United States v. Mitchell, 445 U.S. 535, 538 (1980)
- Lane v. Pena, 518 U.S. 187, 192 (1996)
- Beneficial Consumer Discount Co. v. Poltonowicz, 47 F.3d 91, 94 (3d Cir. 1995)
- Cudjoe v. Department of Veterans Affairs, 426 F.3d 241, 246 (3d Cir. 2005)
- Millbrook v. United States, 569 U.S. 50, 52 (2013)
- Brumfield v. Sanders, 232 F.3d 376, 382 (3d Cir. 2000)
- Watts v. United States, No. 22-161, 2024 WL 3993278, at *4 (W.D. Pa. Aug. 29, 2024)
- Giordano v. Hohns, 714 F. Supp. 3d 564, 581 (E.D. Pa. 2024)
- Dileo v. Mabus, No. 14-4246, 2015 WL 4612714, at *4 (D.N.J. July 31, 2015)
- Borawski v. Henderson, 265 F. Supp. 2d 475, 483-84 (D.N.J. 2003)
- Conboy v. United States SBA, 992 F.3d 153, 157 (3d Cir. 2021)
- Talley v. United States, Civ. A. No. 11-1180, 2014 WL 282680, at *3 (D.N.J. Jan. 24, 2014)
- In re Orthopedic “Bone Screw” Products Liability Litigation, 132 F.3d 152, 155-56 (3d Cir. 1997)

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