

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON,  
EUGENE DIVISION

Robert Clifford v. Kroger Co.; Fred Meyer, Inc.; Amanda Elaiane  
Cain; Does 1–100; Black and White Cos. 1–10

Clifford v. Kroger Co. · No. 6:26-cv-00665-AA · Decided May 29, 2026

SUMMARY

The District of Oregon grants Robert Clifford’s petition to proceed in forma pauperis. The court dismisses his complaint without service because it insufficiently pleads slander per se, does not overcome the qualified privilege applicable to statements made to law enforcement, does not adequately attribute conversion of his vehicle to the defendants, and does not plausibly allege more than \$75,000 in controversy. The dismissal is with leave to amend within thirty days.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                    |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the District of Oregon, Eugene Division                                                                                                                                                                                                                                                           |
| WRITING FOR THE COURT | Ann Aiken                                                                                                                                                                                                                                                                                                                          |
| JURISDICTION          | United States District Court for the District of Oregon, Eugene Division                                                                                                                                                                                                                                                           |
| DECIDED               | May 29, 2026                                                                                                                                                                                                                                                                                                                       |
| DOCKET                | 6:26-cv-00665-AA                                                                                                                                                                                                                                                                                                                   |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                                          |
| PROCEDURAL POSTURE    | Self-represented plaintiff moved to proceed in forma pauperis. The district court granted the motion, screened the complaint before service under 28 U.S.C. § 1915(e)(2)(B), dismissed the complaint for failure to state a plausible claim and failure to adequately plead the amount in controversy, and granted leave to amend. |
| STANDARD OF REVIEW    | On IFP screening under 28 U.S.C. § 1915(e)(2)(B), the court applies the same standard used for a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6), accepting well-pleaded factual allegations as true but not unsupported legal conclusions and requiring enough factual matter to state a plausible claim.        |
| PRECEDENTIAL VALUE    | nonprecedential                                                                                                                                                                                                                                                                                                                    |

## TOPICS

motions to dismiss

pleadings

subject matter jurisdiction

defamation

conversion

## PRACTICE AREAS

civil procedure

defamation

conversion

federal jurisdiction

in forma pauperis proceedings

## QUESTIONS PRESENTED

1. Whether plaintiff demonstrated sufficient indigency to proceed in forma pauperis.
2. Whether the complaint stated a plausible defamation or slander per se claim under Oregon law.
3. Whether the complaint alleged facts sufficient to overcome the qualified privilege applicable to statements made to law enforcement.
4. Whether the complaint plausibly alleged a conversion claim against defendants based on the towing of plaintiff's vehicle.
5. Whether the complaint adequately alleged an amount in controversy exceeding \$75,000 for diversity jurisdiction.

## HOLDINGS

1. Plaintiff made a sufficient showing of indigency and was entitled to proceed in forma pauperis.
2. A district court must screen an IFP complaint under 28 U.S.C. § 1915(e)(2)(B) before service and dismiss it if it fails to state a claim, applying the Rule 12(b)(6) plausibility standard.
3. The complaint failed to allege sufficient facts to support a slander per se claim and failed to allege sufficient facts showing actual malice to overcome the qualified privilege protecting statements made to law enforcement.
4. The complaint failed to allege sufficient facts showing that defendants intentionally exercised dominion or control over plaintiff's vehicle.
5. The complaint did not sufficiently allege damages exceeding \$75,000, as required for diversity jurisdiction under 28 U.S.C. § 1332.

## KEY QUOTATIONS

*“To survive a motion to dismiss under the federal pleading standards, the complaint must include a short and plain statement of the claim and “contain sufficient factual matter, accepted as true, to ‘state a claim for relief that is plausible on its face.’”*”

*“A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.”*

*“The court, not the jury, “decide[s] where the line is to be drawn between a protected and an unprotected defamatory publication.”*”

## FACTUAL BACKGROUND

Plaintiff, a California resident, alleged that on April 3, 2024, he visited a Fred Meyer store in Coos Bay, Oregon. He alleged that Amanda Elaiane Cain, identified as the store's Loss Prevention Manager, falsely reported to law enforcement that he was a registered sex offender. Plaintiff claimed that the statement resulted in his arrest and the towing of his 2023 RAV4 Prime. He sought compensatory, emotional-distress, and punitive damages in an amount to be determined at trial.

## PROCEDURAL HISTORY

Robert Clifford filed a diversity action asserting defamation-related and conversion claims against Kroger Co., Fred Meyer, Inc., Amanda Elaiane Cain, and Doe defendants. He petitioned to proceed in forma pauperis. The court found that he sufficiently demonstrated indigency, but concluded that the complaint did not adequately plead slander per se, did not overcome the qualified privilege applicable to statements made to law enforcement, did not adequately connect defendants to the alleged exercise of control over his vehicle, and did not adequately allege more than \$75,000 in controversy. The complaint was dismissed without service and with thirty days to amend.

## DISPOSITION

dismissed

## CASES CITED

- Watison v. Carter, 668 F.3d 1108, 1112 (9th Cir. 2012)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Haines v. Kerner, 404 U.S. 519, 520–21 (1972)
- Karim-Panahi v. Los Angeles Police Dep't, 839 F.2d 621, 623 (9th Cir. 1988)
- Lowell v. Wright, 306 Or. App. 325, 331, 473 P.3d 1094 (2020)
- Degon v. USAA Cas. Ins. Co., 511 F. Supp. 3d 1144, 1157 (D. Or. 2021)
- Neumann v. Liles, 358 Or. 706, 712, 369 P.3d 1117, 1121 (2016)
- Wheeler v. Green, 286 Or. 99, 124, 593 P.2d 777 (1979)
- Barnett v. Phelps, 97 Or. 242, 244–45, 191 P. 502 (1920)
- DeLong v. Yu Enters., Inc., 334 Or. 166, 170, 173 (2002)
- Grobstein v. Port of Portland, No. 3:18-CV-01916-YY, 2021 WL 1300115, at \*13 (D. Or. Feb. 16, 2021)
- Christianson v. State, 239 Or. App. 451, 459 (2010)
- Johnson v. Brown, 193 Or. App. 375, 380, decision clarified on reconsideration, 194 Or. App. 486 (2004)
- Becker v. Pacific Forest Indus., Inc., 229 Or. App. 112, 116 (2009)
- Mustola v. Toddy, 253 Or. 658, 664 (1969)