

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
DAKOTA, SOUTHERN DIVISION

AgriVaR, LLC v. Daryl Basham

AgriVaR, LLC v. Daryl Basham · No. 4:25-CR-04253-KES · Decided May 26, 2026

SUMMARY

The United States District Court for the District of South Dakota denies Daryl Basham’s motion to dismiss AgriVaR, LLC’s claims for professional negligence, misrepresentation, breach of fiduciary duty, and punitive damages. The court holds that the federal and state proceedings are not sufficiently parallel to warrant abstention under Colorado River because Basham is not a party to the state action and the claims involve different defendants, duties, and theories of liability.

CASE DETAILS

COURT	United States District Court for the District of South Dakota, Southern Division
WRITING FOR THE COURT	Karen E. Schreier
JURISDICTION	United States District Court for the District of South Dakota, Southern Division
DECIDED	May 26, 2026
DOCKET	4:25-CR-04253-KES
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the federal complaint based on Colorado River abstention arising from a related pending South Dakota state-court action.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true, draws reasonable inferences in the plaintiff’s favor, and determines whether the complaint states a plausible claim for relief. For Colorado River abstention, the court applies the Eighth Circuit’s threshold inquiry whether the state and federal proceedings are sufficiently parallel, resolving doubt in favor of exercising federal jurisdiction.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

motions to dismiss

civil procedure

federalism

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PRACTICE AREAS

civil procedure

federalism

intellectual property

professional negligence

commercial litigation

QUESTIONS PRESENTED

1. Whether the related state and federal proceedings were sufficiently parallel to permit abstention under *Colorado River Water Conservation District v. United States*.
2. Whether the federal complaint should be dismissed as duplicative under claim-splitting principles rather than, or in addition to, the Colorado River abstention framework.
3. Whether the remaining Colorado River factors, assuming parallel proceedings, presented the exceptional circumstances necessary for dismissal or abstention.

HOLDINGS

1. Colorado River provides the governing framework when a federal court is asked to defer to a concurrent state proceeding involving substantially similar parties and issues; it is a narrow exception to the federal courts' obligation to exercise jurisdiction, not a general authorization to dismiss duplicative litigation.
2. The proceedings were not sufficiently parallel because Basham was not a party to the state action, the actions involved different defendants and duties, and the state proceeding was not substantially likely to fully dispose of the claims asserted against Basham in federal court.
3. Even assuming the proceedings were sufficiently parallel, the remaining Colorado River factors did not establish the exceptional circumstances necessary for abstention or dismissal.

KEY QUOTATIONS

“Federal courts generally have a “virtually unflagging obligation” to exercise the jurisdiction conferred upon them, even where parallel state-court proceedings involve similar parties or issues.” (Discussion II.A.2)

“The Colorado River doctrine is not a general authorization to dismiss or stay duplicative litigation; it is a narrow exception to the federal courts’ “virtually unflagging obligation” to exercise the jurisdiction conferred upon them.” (Discussion II.A.2)

“Here, Colorado River abstention is not appropriate because the federal and state proceedings are not sufficiently parallel under the standard articulated by the Eighth Circuit.” (Discussion II.B)

FACTUAL BACKGROUND

AgriVaR alleged that Basham served as its intellectual-property counsel and was responsible for prosecuting and maintaining patent, trademark, copyright, and licensing protections. According to the complaint, Basham allowed patent applications to lapse or be abandoned, filed some applications in SDIP's name, failed to provide notices and updates, and represented that applications remained pending. AgriVaR alleged that it relied on those representations in making business and investment decisions and learned of the problems in September 2024.

AgriVaR separately sued SDIP, Luecke, and two board members in state court over overlapping alleged conduct, but Basham was not a defendant in that action.

PROCEDURAL HISTORY

AgriVaR filed this federal action on December 19, 2025, asserting professional negligence, misrepresentation, breach of fiduciary duty, and punitive damages claims against Basham. AgriVaR had previously filed a related state-court action against SDIP, Luecke, and two board members. Basham moved to dismiss, arguing that the state and federal proceedings were duplicative and sufficiently parallel to warrant abstention. The district court denied the motion.

DISPOSITION

other

CASES CITED

- Colorado River Water Conservation District v. United States, 424 U.S. 800 (1976)
- Moses H. Cone Memorial Hospital v. Mercury Construction Corp., 460 U.S. 1, 13, 25-27 (1983)
- Fru-Con Construction Corp. v. Controlled Air, Inc., 574 F.3d 527, 535-37 (8th Cir. 2009)
- C.H. Robinson Worldwide, Inc. v. Lobrano, 695 F.3d 758, 763-64 (8th Cir. 2012)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Torti v. Hoag, 868 F.3d 666, 671 (8th Cir. 2017)
- Click v. W. Power Sports, Inc., 944 F.3d 714, 717 (8th Cir. 2019)
- Miller v. Redwood Toxicology Laboratory, Inc., 688 F.3d 928, 931 n.3 (8th Cir. 2012)
- Kezhaya v. City of Belle Plaine, 78 F.4th 1045, 1050 (8th Cir. 2023)
- Retsel Corp. v. NDN Collective, 2025 WL 1808904 (D.S.D. July 1, 2025)
- Ritchie Capital Management, LLC v. Jefferies, 849 F. Supp. 2d 881, 889 (D. Minn. 2012)
- Sparkman Learning Center v. Arkansas Department of Human Services, 775 F.3d 993 (8th Cir. 2014)
- Cottrell v. Duke, 737 F.3d 1238, 1245 (8th Cir. 2013)