

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Marion Wilcox Combs, as Trustee of 2646 S. Madison Street Trust, et al. v. Bethany Harrell, et al.

Combs · No. 2:25-CV-2066 JCM (MDC) · Decided December 29, 2025

SUMMARY

The court addresses defendants’ motion to dismiss claims arising from an allegedly improper lis pendens filed against Nevada real property involved in Colorado divorce proceedings. The court holds that plaintiffs’ damages allegations are sufficient but dismisses the claims without prejudice for pleading deficiencies, lack of a civil cause of action under the cited criminal statutes, and the Nevada RICO statute’s venue requirements. The court grants plaintiffs twenty-one days to seek leave to amend and denies their motion to file a sur-reply.

CASE DETAILS

COURT	United States District Court for the District of Nevada
JURISDICTION	United States District Court for the District of Nevada
DECIDED	December 29, 2025
DOCKET	2:25-CV-2066 JCM (MDC)
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss plaintiffs' removed state-court complaint asserting fraud-based claims. Plaintiffs also moved for leave to file a sur-reply.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true, disregards legal conclusions, and determines whether the complaint states a facially plausible claim for relief. Fraud claims must satisfy Rule 9(b)'s particularity requirement.
PRECEDENTIAL VALUE	Unknown
PARTIES	Marion Wilcox Combs, as Trustee of 2646 S. Madison Street Trust, Marion Wilcox Combs, as Trustee of the Guy St. Clair Combs 2013 Trust v. Bethany Harrell, William Van Horn, Shelly Dill Combs, Van Horn Family Law, P.C.

TOPICS

motions to dismiss

civil procedure

fraud

intentional interference with expectancy

real estate

PRACTICE AREAS

civil procedure

fraud

commercial litigation

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remedies

QUESTIONS PRESENTED

1. Whether plaintiffs adequately pleaded common-law fraud under Federal Rules of Civil Procedure 8(a)(2) and 9(b).
2. Whether plaintiffs adequately pleaded civil conspiracy to defraud.
3. Whether Nevada's criminal extortion statutes provided plaintiffs with a private civil cause of action or supported their negligence-per-se claim.
4. Whether plaintiffs adequately pleaded intentional interference with contractual or prospective contractual relations.
5. Whether Nevada's civil RICO venue provision barred plaintiffs' claim because defendants resided in Colorado and committed the alleged acts there.
6. Whether plaintiffs should receive leave to amend after dismissal under Rule 12(b)(6).
7. Whether plaintiffs should be permitted to file a sur-reply.

HOLDINGS

1. Plaintiffs failed to plead common-law fraud with the particularity required by Rule 9(b) because they did not allege how defendants intended to induce plaintiffs to act or refrain from acting on the alleged misrepresentation.
2. Plaintiffs failed to state a claim for civil conspiracy to defraud because their failure to adequately plead the underlying fraud claim meant they had not adequately pleaded the required overt act of fraud.
3. Plaintiffs could not obtain civil relief based on Nevada's criminal extortion statute, NRS 205.320, and NRS 205.980(5) did not provide a civil cause of action absent a parallel criminal case under the relevant statutes.
4. Plaintiffs failed to state a claim for intentional interference with existing contractual relations because they did not allege a contract with a third party to sell the property at the higher price, and they failed to plead prospective contractual interference with the particularity required by Rule 9(b).
5. Nevada's civil RICO venue provision barred plaintiffs' claim in Nevada because defendants resided in Colorado and filed the lis pendens in Colorado.
6. Leave to amend was appropriate because the pleading deficiencies in the fraud-based claims could potentially be cured by amendment.

KEY QUOTATIONS

“To survive a motion to dismiss, a complaint must contain sufficient factual matter to “state a claim to relief that is plausible on its face.”” (at 2)

“The complaint must specify such facts as the times, dates, places, benefits received, and other details of the alleged fraudulent activity.” (at 3)

FACTUAL BACKGROUND

Plaintiff Guy St. Clair Combs 2013 Trust owned Nevada real property listed for sale at \$1,950,000. Defendants recorded a lis pendens against the property in connection with a Colorado divorce action to which plaintiffs were not parties, and the property was later transferred to a newly formed trust, 2646 S. Madison Street Trust. A Nevada state court subsequently found that the lis pendens was improperly filed and ordered it expunged, but defendants did not release it until March 2025. The property ultimately sold for \$1,830,267, and plaintiffs alleged that the lis pendens caused the loss in value.

PROCEDURAL HISTORY

Plaintiffs filed suit in Nevada state court and defendants timely removed the action to the United States District Court for the District of Nevada. Defendants moved to dismiss the complaint in its entirety, and plaintiffs opposed the motion and sought leave to file a sur-reply. The court denied the sur-reply motion, granted the motion to dismiss without prejudice, and allowed plaintiffs twenty-one days to seek leave to amend.

DISPOSITION

other

CASES CITED

- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 677-79 (2009)
- Starr v. Baca, 652 F.3d 1202, 1216 (9th Cir. 2011)
- Neubronner v. Milken, 6 F.3d 666, 671 (9th Cir. 1993)
- DeSoto v. Yellow Freight Sys., Inc., 957 F.2d 655, 658 (9th Cir. 1992)
- Foman v. Davis, 371 U.S. 178, 182 (1962)
- Lopez v. Smith, 203 F.3d 1122, 1127 (9th Cir. 2000) (en banc)
- Hal Roach Studios, Inc. v. Richard Feiner & Co., 896 F.2d 1542, 1555 n.19 (9th Cir. 1990)
- United States v. Ritchie, 342 F.3d 903, 907-09 (9th Cir. 2003)
- Carstarphen v. Milsner, 594 F. Supp. 2d 1201, 1207 (D. Nev. 2009)
- Neilson v. Union Bank of Cal., 290 F. Supp. 2d 1101, 1112 (C.D. Cal. 2003)
- Barmettler v. Reno Air, 956 P.2d 1382, 1386 (Nev. 1998)
- Jordan v. State ex rel. Dep't of Motor Vehicles Pub. Safety, 110 P.3d 30, 51 (Nev. 2005)
- Buzz Stew, LLC v. City of N. Las Vegas, 181 P.3d 670 (Nev. 2008)
- Wichinsky v. Mosa, 847 P.2d 727, 729-30 (Nev. 1993)
- Rimini St. v. Oracle Int'l Corp., 473 F. Supp. 3d 1158, 1223 (D. Nev. 2020)

