

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

**Arthur D’Amario, III v. Globe Photos, Inc.; Globe Entertainment
and Media Corp.**

D’Amario v. Globe Photos · No. 2:25-cv-02001-APG-EJY · Decided December 3, 2025

OPINION

1 UNITED STATES DISTRICT COURT 2 DISTRICT OF NEVADA 3 * * * 4 ARTHUR
D’AMARIO, III, Case No. 2:25-cv-02001-APG-EJY 5 Plaintiff, ORDER 6 v. AND REPORT
AND RECOMMENDATION 7 GLOBE PHOTOS, INC.; GLOBE ENTERTAINMENT AND
MEDIA CORP., 8 Defendants. 9 10 Pending before the Court is Plaintiff’s First Amended
Complaint (“FAC”). ECF No. 5. 11 Plaintiff’s application to proceed in forma pauperis was
granted on October 22, 2025.

ECF No. 3. 12 The Court screens Plaintiff’s FAC under the same standard as it screened his
original Complaint. 13 Id. at 1-2. 14 I. Plaintiff’s FAC Establishes a Basis for Diversity
Jurisdiction 15 a. Diversity of Citizenship. 16 Plaintiff asserts this Court has jurisdiction based on
diversity of the parties under 28 U.S.C. 17 § 1332, which confers district courts with original
jurisdiction “of all civil actions where the matter 18 in controversy exceeds the sum or value of
\$75,000,... and is between citizens of different 19 states.” 28 U.S.C. § 1332(a)(1).

For purposes of diversity jurisdiction, corporations are “deemed to 20 be a citizen of any State by
which it has been incorporated and of the State where it has its principle 21 place of business....”
28 U.S.C. § 1332(c)(1). A corporation with dual citizenship cannot be sued 22 in federal court
based on diversity if the plaintiff is a citizen of either state.

Bank of Cal. Nat’l Ass’n 23 v. Twin Harbors Lumber Co., 465 F.2d 489, 491 (9th Cir. 1972). 24 In
his FAC, Plaintiff states he is a lifelong resident of Rhode Island. ECF No. 5 ¶ 3. Plaintiff 25 then
pleads that defendant Globe Photos, Inc. (“Globe Photos”) is a Delaware corporation with a 26
principal place of business in Las Vegas, Nevada. Id. ¶ 4. Plaintiff further pleads that Globe 27
Entertainment and Media Corp (“Globe Entertainment”) is incorporated in Nevada, with a
principal 1 place of business in Las Vegas, Nevada.1 Id. ¶ 5.

Finally, Plaintiff pleads Hard Rock International 2 (“Hard Rock”) is a Florida corporation, and
while it has offices in Las Vegas, the principal place of 3 business is not Rhode Island. Id. ¶ 7.
Therefore, it appears from these allegations that the parties 4 are citizens of different states. 5 b.
The Amount in Controversy. 6 Plaintiff’s first claim asserts a breach of contract arising from an
agreement he signed with 7 Globe Photos on December 6, 2019.2 Id. 18.

However, Plaintiff claims Globe Entertainment “took 8 control” of Globe Photos and Plaintiff’s property—photographic material—in 2020 (a more specific 9 date is not provided). Id. ¶ 14. Plaintiff contends that “Defendants” made no effort to sell his 10 photographs after assuming control of them, so he asked to “end the contract” and get his 11 photographs returned.

Id. ¶ 15. To this end, Plaintiff says that between in March 2022 and February 12 2024, he and a corporate officer associated with the Globe entities (Tucker Diedwardo) negotiated 13 the termination of the Globe Photos contract and return of Plaintiff’s photograph. Id. ¶¶ 15, 18. 14 Plaintiff claims Mr. Diedwardo ultimately agreed to the contract termination and return of his 15 photographs, but the photographs were never returned and that Plaintiff earned zero dollars while 16 these photographs were stored with the Globe entities.

Id. Plaintiff titles the agreement to return his 17 photographs the “second valid, binding, agreement between the parties.”³ Id. ¶ 18. 18 Plaintiff next alleges that by May 2025 Globe Photos and Globe Entertainment “transferred 19 some, or all” of his photographs to Hard Rock even though the Globe entities knew “the contractual 20 relationship was over.” Id. ¶ 17.

Plaintiff alleges that the Second Agreement should have precluded 21 the Globe entities from transferring his photographs to Hard Rock. Id. ¶ 18. Nonetheless, Plaintiff 22 admits he entered into no contract with Hard Rock. Id. ¶ 17. Indeed, Plaintiff asserts no facts 23 demonstrating he and Hard Rock ever agreed to any terms creating contractual obligations of any 24 kind.

Id., generally. Given that Plaintiff fails to plead the existence of any contract with Hard Rock, 25 Hard Rock could not have breached any duty owed to Plaintiff and, concomitantly, could not have 26 27 1 Globe Photos and Globe Entertainment are sometimes referred to herein as the “Globe entities.” 2 Plaintiff’s Interference with Contractual Relations, Injunctive Relief, and Declaratory Relief Claims are 1 caused him any damage based on a breach of contract.⁴ Further, there is no allegation that Hard 2 Rock knowingly interfered with any contract Plaintiff claims existed between himself and the Globe 3 entities.

Thus, no damages could arise from an interference claim. In sum, Hard Rock must be 4 dismissed with prejudice from this action as Plaintiff states no claim in his FAC against this named 5 defendant, and Plaintiff’s claim of more than \$75,000 in damages cannot be supported by any 6 conduct allegedly involving Hard Rock International. 7 Plaintiff’s FAC is also devoid of any facts demonstrating the contract he signed with Globe 8 Photos resulted in damages from the lack of sales of his photographs.

Plaintiff provides no allegation 9 suggesting, let alone establishing, Globe Photos breached a minimum sales guarantee or other 10 performance obligation under the contract. ECF No. 5, generally. Plaintiff provides no information 11 regarding how many photographs he historically

sold when contracting with Retna, although he 12 states he “successfully competed with other rock and roll photographers his age” Id. ¶ 19.

To 13 the extent Globe Photos’ contractual obligation to Plaintiff would assume reasonable efforts, again, 14 there are no facts supporting that reasonable efforts were not made. Thus, there is nothing before 15 the Court that would allow for a reasoned assessment of the number of Plaintiff’s photographs that 16 would have been sold by Globe Photos at any time.

17 Plaintiff alleges Globe Photos was taken over by Globe Entertainment in 2020 at which time 18 Globe Entertainment also took control of his photographic inventory. Id. ¶ 14. Importantly, there 19 are no facts alleged demonstrating the contract between Plaintiff and Globe Photos was assumable 20 by or assignable to any subsequent entity or that it was, in fact, assumed or assigned to Globe 21 Entertainment.

Id., generally. In the absence of any facts establishing Globe Entertainment could 22 or did assume contractual obligations owed by Globe Photos to Plaintiff, Plaintiff cannot establish 23 Globe Entertainment breached such duty thereby causing Plaintiff harm in the form of lost sales. 24 Plaintiff bears the burden of proving by a preponderance of the evidence that the amount in 25 controversy meets that jurisdictional threshold.

Valdez v. Allstate Ins. Co., 372 F.3d 1115, 1117 (9th 26 27 4 To state a breach of contract claim, a plaintiff must allege the existence of a valid agreement between the plaintiff and the defendant, a material breach by the defendant, and damages. Bernard v. Rockhill Dev. Co., 734 P.2d 1 Cir. 2004) (internal citations omitted). Plaintiff must show that it is more likely than not that 2 the amount in controversy exceeds \$75,000.

Id. While the sale of Plaintiff’s photographic work 3 might be worth in excess of \$1,000 if sold, ECF No. 5 ¶ 21, of which he would be entitled to 50% 4 in commissions (id. ¶ 13), there is simply nothing before the Court that suggests the number of 5 photographs that would have been sold by Globe Photos. Even assuming Plaintiff is informed and 6 believes he would have earned \$75,000 from the sale of his photographs by Globe Photos or Globe 7 Entertainment, this information and belief is insufficient to meet the preponderance of the evidence 8 standard required to support an exercise of diversity jurisdiction.

Valdez, 372 F.3d at 1117 (internal 9 citations omitted). 10 Finally, Plaintiff alleges the breach of the Second Agreement to return his property—the 11 2,000-3,000 photographs deposited with Retna and transferred to Globe Photos and then to Globe 12 Entertainment—which Mr. Diedwardo allegedly agreed to return. ECF No. 5 ¶¶ 11, 15, 18. Plaintiff 13 first describes this as a “promise” not a contract (id. ¶ 15), but subsequently identifies this as the 14 Second Agreement that included termination of the original contract with Globe Photos to sell his 15 photographs.

Id. ¶ 18. To support the value of the photographs Plaintiff references a recent 16 advertisement of a poster that depicts a photograph he took of David Bowie in 1983. Id. at 22. 17 Plaintiff says the poster is being sold by the London Victoria & Albert Museum for 100£ (British 18 Pounds). Id. Plaintiff admits that the original slide of the photograph was lost in or around 19 September 1990, and he was paid \$1,000 at that time for the loss.

Id. ¶ 23. Nevertheless, Plaintiff 20 states his “original materials ... could reasonably be worth \$1,000 each”; although, he believes this 21 undervalues the total value of his inventory which Defendants allegedly hold. Id. ¶ 24. 22 If the Court presumes, as it must with respect to this pro se filed FAC, that (1) there was a 23 contract to return Plaintiff’s photographs, (2) the same contract included a release of the duty to sell 24 Plaintiff’s photographs, and (3) there was a subsequent failure to return the photographs, Plaintiff 25 has facially pleaded a breach of contract claim.

Plaintiff further sufficiently pleads facts establishing 26 his 2,000 to 3,000 photographs held by the Globe entities were worth at least \$75,000 thus meeting 27 the amount in controversy for diversity jurisdiction. That is, Plaintiff states “his historic, classic 1 “stockpiled” 2,000 to 3,000 of his photographs with Retna. Id. ¶ 11. Plaintiff avers in the autumn 2 of 2019, Globe Photos became his new agent and that after Globe Entertainment took Globe Photos 3 over and “took control” of Plaintiff’s inventory originally stored with Retna and placed that 4 inventory in a vault.

Id. ¶¶ 12-13. The Globe entities thereafter, and without Plaintiff’s permission, 5 allegedly turned over some of these photographs to Hard Rock. These allegations establish a breach 6 of the contract to return the photographs to Plaintiff and the subsequent disposal of at least some of 7 those photographs in contravention of the agreement to return them. At \$1,000 a piece, even 1,000 8 photographs would exceed the \$75,000 threshold for diversity jurisdiction.

9 II. Plaintiff’s Breach of Contract Claim Against Globe Entertainment May Proceed; The Court Recommends Dismissing Plaintiff’s Remaining Claims 10 In his FAC, Plaintiff asserts a tortious interference claim, but pleads no facts to support this 11 claim. ECF No. 5 ¶ 1 and generally. “In Nevada, in an action for intentional interference with 12 contractual relations, a plaintiff must establish: (1) a valid and existing contract; (2) the defendant’s 13 knowledge of the contract; (3) intentional acts intended or designed to disrupt the contractual 14 relationship; (4) actual disruption of the contract; and (5) resulting damage.” J.J.

Indus., L.L.C. v. 15 Bennett, 71 P.3d 1264, 1266 (Nev. 2003) (citing Sutherland v. Gross, 772 P.2d 1287, 1290 (Nev. 16 1989)). As discussed above, Plaintiff alleges there was a written contract between himself and Globe 17 Photos, which he states was terminated. ECF No. 5 ¶¶ 15, 18. Plaintiff alleges no other defendant 18 interfered with this contract for the purpose of disrupting Plaintiff’s relationship with Globe Photos.

19 Id. generally. The Second Agreement Plaintiff alleges was for the return of his photographs, which 20 he never received; however, he does not allege an entity other than those with whom he agreed 21 somehow failed to perform or otherwise somehow interfered for purposes of disrupting those 22 contracts. Id. Neither Globe Photos nor Globe Entertainment could interfere with their own 23 contracts.

Bartsas Realty, Inc. v. Nash, 402 P.2d 650, 651 (Nev. 1965). Thus, Plaintiff's interference 24 with contract claim fails as a matter of law. 25 Plaintiff also says he is seeking declaratory and injunctive relief. ECF No. 5 ¶ 1. Injunctive 26 relief is a remedy not an independent cause of action. Alandia v. U.S. Bank, Case No. 2:09-cv-687 27 JCM (PAL), 2009 WL 4611442, at *3 (D.

Nev. 2009). Thus, this claim fails as a matter of law. 1 Plaintiff fails to state a claim for declaratory relief as he does not allege a dispute as to the existence 2 of the legal relationship between himself and Defendants Globe Photos or Globe Entertainment.⁵ 3 Instead, he only alleges the contract with Globe Photos was terminated and the Second Agreement 4 was breached.

5 Plaintiff's breach of contract claim against Globe Photos, Inc. is dismissed without prejudice. 6 Plaintiff pleads that the contract to sell his photographs was terminated by agreement thus fatally 7 undermining a breach of contract claim.

The Second Agreement to return his photographic inventory 8 is alleged to be between Plaintiff and Globe Entertainment. It is this contract claim that proceeds. 9 Nonetheless, if facts are discovered that reveal information allowing Plaintiff to plead claims against 10 Globe Photos, dismissal without prejudice does not preclude a later attempt to do so. 11 III.

Order 12 IT IS HEREBY ORDERED that Plaintiff's breach of contract claim against Globe Photos, 13 Inc. is dismissed without prejudice. As stated, if facts are derived that will allow Plaintiff to plead 14 claims against Globe Photos in the future, dismissal without prejudice does not preclude a later 15 attempt to do so. 16 IT IS FURTHER ORDERED that Plaintiff's breach of contract claim against Globe 17 Entertainment and Media Corp. alleging the failure to return his property may proceed.

18 IT IS FURTHER ORDERED that the Clerk of Court must issue a summons for Globe 19 Entertainment and Media Corp. and send the same to the U.S. Marshal Service along with copies of 20 Plaintiff's First Amended Complaint (ECF No. 5) and this Order for service. 21 IT IS FURTHER ORDERED that the Clerk of Court must send Plaintiff one USM-285 form. 22 Plaintiff must complete the form to the best of his ability for purposes of service of his First Amended 23 Complaint on Globe Entertainment and return the form to the U.S. Marshal Service no later than 24 January 5, 2026, at the following address: 25 26 27 5 "Declaratory relief is appropriate when: (1) the judgment will serve a useful purpose in clarifying and settling 1 Gary G.

Schofield U.S. Marshal, District of Nevada 2 Lloyd D. George Federal Courthouse 333 Las Vegas Blvd.

S., Suite 2058 3 Las Vegas, Nevada 89101 4 Plaintiff is advised to check the Nevada Secretary of State Business Entity Search website for Globe 5 Entertainment's registered agent upon whom service must be made. Plaintiff should provide that 6 information to the U.S. Marshal Service. 7 IT IS FURTHER ORDERED that the U.S. Marshal Service must attempt service on Globe 8 Entertainment within twenty-one (21) days of receipt of Plaintiff's completed USM-285.

9 IV. Recommendation 10 IT IS HEREBY RECOMMENDED that Plaintiff's claims against Hard Rock International 11 be dismissed with prejudice. 12 IT IS FURTHER RECOMMENDED that Plaintiff's claims asserting intentional interference 13 with contractual relations, injunctive relief, and declaratory relief be dismissed with prejudice. 14 Dated this 3rd day of December, 2025.

15 16 17 ELAYNA J. YOUGHAN UNITED STATES MAGISTRATE JUDGE 18 19 NOTICE 20 Under Local Rule IB 3-2, any objection to this Report and Recommendation must be in 21 writing and filed with the Clerk of the Court within fourteen (14) days.

The Supreme Court holds 22 the courts of appeal may determine that an appeal has been waived due to the failure to file objections 23 within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). The Ninth Circuit also held that 24 (1) failure to file objections within the specified time and (2) failure to properly address and brief 25 the objectionable issues waives the right to appeal the District Court's order and/or appeal factual 26 issues from the order of the District Court.

Martinez v. Ylst, 951 F.2d 1153, 1157 (9th Cir. 1991); 27 *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).