

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

John Harvey v. Torrent Leasing, Inc. and U.S. Bank, N.A.

No. 2:25-cv-00824-JAD-DJA (D. Nev. Dec. 15, 2025) · No. 2:25-cv-00824-JAD-DJA · Decided December 15, 2025

SUMMARY

The United States District Court for the District of Nevada granted U.S. Bank's motion to dismiss John Harvey's complaint concerning garnishment of his Nevada bank account to satisfy an Illinois judgment. The court dismissed the 42 U.S.C. § 1983 claims with prejudice because the defendants were private actors and Harvey did not adequately allege joint action with a state actor, and it dismissed the remaining state-law claims without prejudice for lack of subject-matter jurisdiction. The court denied leave to amend, vacated the clerk's entry of default against Torrent Leasing, denied the motion to stay as moot, and closed the case.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the District of Nevada                                                                                                                                                                                                                                                                                                                                                                                                            |
| WRITING FOR THE COURT | Jennifer A. Dorsey                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| JURISDICTION          | United States District Court for the District of Nevada                                                                                                                                                                                                                                                                                                                                                                                                            |
| DECIDED               | December 15, 2025                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| DOCKET                | 2:25-cv-00824-JAD-DJA                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| PROCEDURAL POSTURE    | U.S. Bank moved to dismiss Harvey's complaint and to stay the case. Harvey opposed dismissal and requested leave to amend. Torrent Leasing did not appear, and the clerk entered default against it. The court granted the motion to dismiss, denied the motion to stay as moot, dismissed the federal claim with prejudice, dismissed the state-law claims without prejudice, vacated the entry of default, entered judgment for defendants, and closed the case. |
| STANDARD OF REVIEW    | On a motion to dismiss, the court applied the plausibility standard under Federal Rule of Civil Procedure 8 and considered whether the complaint stated a plausible claim for relief. The court also considered subject-matter jurisdiction, including whether the allegations and extrinsic evidence established federal jurisdiction. Because Harvey was unrepresented, his filings were liberally construed, but he was still                                   |

|                           |                                                                                        |
|---------------------------|----------------------------------------------------------------------------------------|
|                           | required to allege facts sufficient to support a viable legal theory and jurisdiction. |
| <b>PRECEDENTIAL VALUE</b> | unpublished district-court opinion; persuasive authority only                          |
| <b>PARTIES</b>            | John Harvey v. Torrent Leasing, Inc., U.S. Bank, N.A.                                  |

## TOPICS

motions to dismiss

section 1983

subject matter jurisdiction

pleadings

default

## PRACTICE AREAS

civil procedure

civil rights

constitutional law

federal jurisdiction

commercial litigation

## QUESTIONS PRESENTED

1. Whether Harvey stated a claim under 42 U.S.C. § 1983 against private defendants by adequately alleging state action or joint action with a state actor.
2. Whether the court should exercise supplemental jurisdiction over Harvey's state-law claims after dismissing the federal claim.
3. Whether Harvey should be granted leave to amend his complaint.
4. Whether the court could dismiss the claims against the nonappearing defendant and vacate the clerk's entry of default.

## HOLDINGS

1. A private party is subject to suit under § 1983 only when the alleged constitutional violation is fairly attributable to the government, such as through conspiracy or sufficiently substantial joint action with a state actor. Merely appearing in court or prevailing in litigation does not establish state action or joint action.
2. The court declined to exercise supplemental jurisdiction over Harvey's remaining state-law claims and dismissed them without prejudice.
3. Leave to amend was denied because amendment would be futile.
4. The court could dismiss the claims against Torrent Leasing sua sponte because Torrent Leasing was in a position similar to U.S. Bank with respect to the dispositive state-action and jurisdictional defects.
5. The clerk's entry of default was vacated because the court lacked subject-matter jurisdiction over the claims.

## KEY QUOTATIONS

*“Federal pleading standards require a plaintiff’s complaint to include enough factual detail to “state a claim to relief that is plausible on its face.”” (at 2)*

*“merely resorting to the courts and being on the winning side of a lawsuit does not make a party a co-conspirator or a joint actor with the judge.”* (at 4)

*“This test is intentionally demanding and requires a high degree of cooperation between private parties and state officials to rise to the level of state action.”* (at 5)

*“Because the court lacked subject-matter jurisdiction over Harvey’s claims, I find good cause and vacate the entry of default against Torrent Leasing.”* (at 9)

## FACTUAL BACKGROUND

Harvey alleged that Torrent Leasing and U.S. Bank were garnishing his Nevada-based bank account to satisfy an Illinois state-court judgment and that the garnishment deprived him of exempt property without notice or a hearing. He claimed that the defendants acted jointly with an Illinois state-court judge and therefore were state actors for purposes of § 1983. The transcript attached to his complaint showed only that the defendants participated in a typical state-court proceeding and did not indicate a conspiracy, bribery, or other joint action. The amount allegedly involved in the garnishment was approximately \$19,647.48.

## PROCEDURAL HISTORY

Harvey filed a complaint seeking to stop the defendants from garnishing his Nevada bank account to satisfy an Illinois state-court judgment. He asserted claims under 42 U.S.C. § 1983 and state law. U.S. Bank moved to dismiss; Torrent Leasing did not appear. The court dismissed all claims, denied leave to amend as futile, vacated the clerk’s entry of default against Torrent Leasing, and closed the case.

## DISPOSITION

dismissed

## CASES CITED

- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 562, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Ortez v. Washington County, 88 F.3d 804, 807 (9th Cir. 1996)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- Leite v. Crane Co., 749 F.3d 1117, 1121 (9th Cir. 2014)
- Kirtley v. Rainey, 326 F.3d 1088, 1092 (9th Cir. 2003)
- Sutton v. Providence St. Joseph Medical Center, 192 F.3d 826, 835 (9th Cir. 1999)
- Dennis v. Sparks, 449 U.S. 24, 27-28 (1980)
- O’Handley v. Weber, 62 F.4th 1145, 1159-60 (9th Cir. 2023)
- Tsao v. Desert Palace, 698 F.3d 1128, 1140 (9th Cir. 2012)
- United Steelworkers of America v. Phelps Dodge Corp., 865 F.2d 1539, 1540-41 (9th Cir. 1989)
- Gorenc v. Salt River Project Agricultural Improvement & Power District, 869 F.2d 503, 507 (9th Cir. 1989)
- Rawson v. Recovery Innovations, Inc., 975 F.3d 742, 753 (9th Cir. 2020)

- Franklin v. Fox, 312 F.3d 423, 445 (9th Cir. 2002)
- Children's Health Defense v. Meta Platforms, Inc., 112 F.4th 742, 763 (9th Cir. 2024)
- Rosenwald v. Kimberly-Clark Corp., 152 F.4th 1167, 1173, 1176 (9th Cir. 2025)
- NewGen, LLC v. Safe Cig, LLC, 840 F.3d 606, 613-14 (9th Cir. 2016)
- Harris v. Rand, 682 F.3d 846, 850 (9th Cir. 2012)
- California Shock Trauma Air Rescue v. State Compensation Insurance Fund, 636 F.3d 538, 543 (9th Cir. 2011)
- Lopez v. Smith, 203 F.3d 1122, 1130 (9th Cir. 2000)
- Wheeler v. City of Santa Clara, 894 F.3d 1046, 1059 (9th Cir. 2018)
- Scott v. Ross, 140 F.3d 1275, 1284 (9th Cir. 1998)
- Pasadena Republican Club v. Western Justice Center, 985 F.3d 1161, 1171 (9th Cir. 2021)
- Goziker v. Wells Fargo Bank, N.A., 2023 WL 8872294, at \*7 (C.D. Cal. Oct. 17, 2023)
- Friess v. Mortgage Law Firm PC, 2025 WL 2676089, at \*6 (D. Ariz. Sept. 18, 2025)
- Silverton v. U.S. Department of Treasury, 644 F.2d 1341, 1345 (9th Cir. 1981)
- Watts v. Pinckney, 752 F.2d 406, 410 (9th Cir. 1985)
- Poulson v. Bank of America, N.A., 675 F. App'x 650, 651 (9th Cir. 2017)
- Lawrence v. Clark County, 254 P.3d 606 (Nev. 2011)
- Nesses v. Shepard, 68 F.3d 1003, 1004 (7th Cir. 1995)
- Freeman v. King County Superior Court, 2013 WL 11319011, at \*6 (W.D. Wash. June 21, 2013), aff'd, 599 F. App'x 643 (9th Cir. 2015)