

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

OPINION

Harvey

PER CURIAM.

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 Case No.: 2:25-cv-00824-JAD-DJA John Harvey, 4 Plaintiff Order Granting Motion to Dismiss
Si] v- and Closing Case 6|| Torrent Leasing, Inc. and U.S. Bank, N.A., [ECF Nos. 17, 23] 7
Defendants 8 9 John Harvey sues Torrent Leasing Inc. and U.S. Bank, N.A. to stop them from
garnishing 10|| his Nevada-based bank account to satisfy an Illinois state-court judgment.'! But
Harvey's complaint is based on 42 U.S.C. § 1983, which does not apply to private actors, and
state-law 12||claims.? U.S. Bank thus moves to dismiss it, arguing that it is a private actor that
can't be sued under § 1983 and that the court should decline to retain federal jurisdiction over
Harvey's remaining state-law claims.* Harvey attempts to rescue his § 1983 claim by asserting
that 15|| Torrent Leasing and U.S. Bank conspired with a state actor.* But neither his allegations
nor the 16|| documents attached to Harvey's complaint support his theory or confer jurisdiction
over his 17|| state-law claims in this court, so I grant U.S. Bank's motion, dismiss Harvey's
complaint, and close this case. 19 20 21 □ ! See generally ECF No. 9. 22 > See id. See ECF No.
23. * See ECF No. 30. 1 Discussion 2 Federal pleading standards require a plaintiff's complaint to
include enough factual detail 3 to "state a claim to relief that is plausible on its face."5 This
"demands more than an unadorned, 4 the-defendant-unlawfully-harmed-me accusation";6 a
plaintiff must make direct or inferential 5 factual allegations about "all the material elements
necessary to sustain recovery under some 6 viable legal theory."7 A complaint that fails to meet
this standard must be dismissed.8 7 Because Harvey is an unrepresented litigant, this court must
liberally construe his 8 arguments.9 Still, dismissal of a complaint is appropriate if it appears
beyond a doubt that he 9 "can prove no set of facts in support of his claim which would entitle
him to relief"10 or if the 10 allegations in the complaint or extrinsic evidence show that this court
lacks subject-matter 11 jurisdiction.11 12 A. Harvey's § 1983 claim must be dismissed because the
defendants are not state 13 actors. 14 Harvey's anchor for federal jurisdiction is a § 1983 claim
alleging that Torrent Leasing 15 and U.S. Bank "deprived [him] of exempt property without notice
or hearing in violation of 16 17 18 5 Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). 6
Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). 19 7 Twombly, 550 U.S. at 562 (quoting Car Carriers,
Inc. v. Ford Motor Co., 745 F.2d 1101, 1106 20 (7th Cir. 1984)).

8 Id. at 570.

21 9 *Ortez v. Wash. Cnty.*, 88 F.3d 804, 807 (9th Cir. 1996); *Erickson v. Pardus*, 551 U.S. 89, 94
22 (2007) (unrepresented litigants “must be held to less stringent standards than formal pleadings
drafted by lawyers”). 23 10 *Ortez*, 88 F.3d at 807. 11 *Leite v. Crane Co.*, 749 F.3d 1117, 1121 (9th
Cir. 2014). 1 federal due process guarantees.”12 But § 1983 authorizes a federal lawsuit only
against state 2 actors and persons “act[ing] under color of state law.”13 So U.S. Bank naturally
moves to 3 dismiss this claim, pointing out that it is a private corporation and not a state actor.14
Tacitly 4 recognizing this fatal problem in his response brief, Harvey theorizes that *Torrent*
Leasing and 5 U.S. Bank engaged in joint action with a state actor when they appeared before a
state-court 6 judge.15 This theory falls short of saving this claim. 7 A plaintiff may sue a private
party under § 1983 if that party engaged in joint action with 8 a state actor.16 “A plaintiff can
show joint action either ‘by proving the existence of a conspiracy 9 or by showing that the private
party was a willful participant in joint action with the State or its 10 agents.’”17 To allege a
conspiracy, the plaintiff must first show “an agreement or ‘meeting of the 11 minds’ to violate
constitutional rights.”18 Under the willful-participant approach, “joint action 12 exists when the
state has ‘so far insinuated itself into a position of interdependence with [the 13 private entity] that
it must be recognized as a joint participant in the challenged activity.’”19 “In 14 15 12 ECF No. 9
at 4–5 (citing 42 U.S.C. § 1983). 16 13 See 42 U.S.C. § 1983; *Kirtley v. Rainey*, 326 F.3d 1088,
1092 (9th Cir. 2003) (quoting *Sutton v. Providence St. Joseph Med. Ctr.*, 192 F.3d 826, 835 (9th
Cir. 1999)) (“The ultimate issue in 17 determining whether a person is subject to suit under § 1983
is the same question posed in cases arising under the Fourteenth Amendment: is the alleged
infringement of federal rights fairly 18 attributable to the [government]?”). 14 ECF No. 23 at 5. 19
15 ECF No. 30 at 9. 20 16 *Dennis v. Sparks*, 449 U.S. 24, 27–28 (1980). 21 17 *O’Handley v.*
Weber, 62 F.4th 1145, 1159 (9th Cir. 2023) (quoting *Tsao v. Desert Palace*, 698 F.3d 1128, 1140
(9th Cir. 2012)). 22 18 Id. (quoting *United Steelworkers of Am. v. Phelps Dodge Corp.*, 865 F.2d
1539, 1540–41 (9th Cir. 1989)). 23 19 *Tsao*, 698 F.3d at 1140 (quoting *Gorenc v. Salt River*
Project Agric. Improvement & Power Dist., 869 F.2d 503, 507 (9th Cir. 1989)). 1 other words,
joint action is present when the [s]tate ‘significantly involves itself in the private 2 parties’ actions
and decisionmaking’ in a ‘complex and deeply intertwined process.’”20 “This 3 test is
intentionally demanding and requires a high degree of cooperation between private parties 4 and
state officials to rise to the level of state action.”21 5 Harvey argues that the defendants conspired
with an Illinois state-court judge because 6 their appearance and conduct before that judge shows
“beyond any doubt” “strategic 7 coordination with Illinois officials to circumvent Nevada’s
constitutional protections.”22 Harvey 8 cites *Dennis v. Sparks* in support, in which the United
States Supreme Court allowed a § 1983 9 claim to proceed against private litigants because the
parties conspired with a judge to exchange 10 bribes for an injunction.23 But as the *Dennis* court
acknowledged, “merely resorting to the courts 11 and being on the winning side of a lawsuit does
not make a party a co-conspirator or a joint actor 12 with the judge.”24 And the “verified smoking

gun”²⁵ transcript that Harvey attached to his 13 complaint shows only that U.S. Bank and Torrent Leasing appeared in a typical court 14 proceeding.²⁶ Nothing in the transcript remotely suggests a conspiracy or joint action like in 15 *Dennis*. So Harvey cannot demonstrate that the defendants are state actors capable of being sued 16 17 18 19 20 *O’Handley*, 62 F.4th at 1159 (quoting *Rawson v. Recovery Innovations, Inc.*, 975 F.3d 742, 753 (9th Cir. 2020)). 20 21 *Id.* at 1159–60 (citing *Franklin v. Fox*, 312 F.3d 423, 445 (9th Cir. 2002)). 21 22 ECF No. 30 at 9. 23 *Dennis*, 449 U.S. at 27–28. 22

24 *Id.* at 28.

23 25 ECF No. 30 at 11. 26 See ECF No. 9-2 at 45–60. 1 under § 1983. I thus dismiss Harvey’s § 1983 claim against U.S. Bank because it is a private 2 actor and Harvey’s “smoking gun” does not show joint action.²⁷ 3 B. This court declines supplemental jurisdiction over the remaining state-law claims. 4 The only claims Harvey asserts other than his § 1983 claim are state-law claims that — 5 without exercising supplemental jurisdiction—this court lacks subject-matter jurisdiction over.²⁸ 6 U.S. Bank argues that this court should decline supplemental jurisdiction over these claims 7 because Harvey’s “state-law claims predominate over the federal due-process claim.”²⁹ Harvey 8 responds with the conclusory argument that his federal claim of a “coordinated constitutional 9 conspiracy creates the common nucleus that supports” his state-law claims and “federal 10 constitutional violations predominate over state-law claims.”³⁰ 11 A federal district court may exercise supplemental jurisdiction “over all other claims that 12 are so related” to the claims over which the court has original jurisdiction “that they form part of 13 27 Harvey seems to characterize his “retaliatory conduct and threats” claims as a First 14 Amendment claim in his response brief. If so, that claim fails for the same reason. *Children’s Health Def. v. Meta Platforms, Inc.*, 112 F.4th 742, 763 (9th Cir. 2024) (noting that a plaintiff’s 15 “inability to establish state action is fatal to all of its First Amendment claims”). 16 28 See generally ECF No. 9. Although neither party addresses diversity jurisdiction, Harvey’s operative complaint cannot trigger diversity jurisdiction. A plaintiff properly pleads diversity 17 jurisdiction if he alleges diversity of citizenship and an amount in controversy exceeding \$75,000. See, e.g., *Rosenwald v. Kimberly-Clark Corp.*, 152 F.4th 1167, 1173 (9th Cir. 2025) 18 (citing 28 U.S.C. § 1332(a)). “The party seeking to invoke the district court’s diversity jurisdiction always bears the burden of both pleading and proving diversity jurisdiction.” 19 *NewGen, LLC v. Safe Cig, LLC*, 840 F.3d 606, 613–14 (9th Cir. 2016). And “a complaint must include allegations of both the state of incorporation and the principal place of business of 20 corporate parties.” *Harris v. Rand*, 682 F.3d 846, 850 (9th Cir. 2012). Although Harvey alleges that he is a Nevada resident, he only insufficiently pled that Torrent Leasing is a “foreign 21 creditor” and U.S. Bank is a “national bank” doing business in Nevada and Illinois. ECF No. 9 at 2. Likewise, as U.S. Bank argues, Harvey’s declaratory relief claim does not confer federal- 22 question jurisdiction as a matter of law. *Cal. Shock Trauma Air Rescue v. State Comp. Ins. Fund*, 636 F.3d 538, 543 (9th Cir. 2011). 23 29 ECF No. 23 at 4 (cleaned up). 30 ECF No. 30 at 15 (cleaned up). 1 the same case or

controversy under Article III of the United States Constitution.”³¹ This means 2 that this court has jurisdiction over state-law claims that are part of the same case or controversy 3 as the jurisdiction-conferring federal-law claims. But supplemental jurisdiction does not attach if 4 the federal claim was “absolutely devoid of merit or obviously frivolous.”³² And the 5 supplemental jurisdiction statute, 28 U.S.C. § 1367, permits a court to “decline to exercise 6 supplemental jurisdiction over a claim” if “(1) the claim raises a novel or complex issue of state 7 law, (2) the claim substantially predominates over the claim or claims over which the district 8 court has original jurisdiction, (3) the district court has dismissed all claims over which it has 9 original jurisdiction, or (4) in exceptional circumstances, there are other compelling reasons for 10 declining jurisdiction.”³³ “When deciding whether to exercise supplemental jurisdiction” under 11 this statute, “a federal court should consider and weigh in each case, and at every stage of the 12 litigation, the values of judicial economy, convenience, fairness, and comity.”³⁴ 13 Harvey’s § 1983 claim against these defendants is plainly devoid of merit and cannot 14 serve as a basis for supplemental jurisdiction. Torrent Leasing and U.S. Bank are 15 unquestionably private actors and Dennis—the very case Harvey relies on—explicitly disproves 16 his own joint-action theory. Courts also routinely refuse to find a federal question based on a 17 meritless § 1983 claim.³⁵ 18 19 20 31 28 U.S.C. § 1367(a). 32 *Brady v. Brown*, 51 F.3d 810, 816 (9th Cir. 1995). 21 33 28 U.S.C. § 1367(c) (cleaned up). 22 34 *City of Chicago v. Int’l Coll. of Surgeons*, 522 U.S. 523, 534 (1997) (cleaned up). 35 See, e.g., *Freeman v. King Cnty. Superior Ct.*, 2013 WL 11319011, at *6 (W.D. Wash. June 23 21, 2013), *aff’d*, 599 F. App’x 643 (9th Cir. 2015) (collecting cases in which federal courts found no federal question arising from meritless § 1983 claims). 1 But even if Harvey’s § 1983 claim could confer jurisdiction, I would still decline to 2 exercise supplemental jurisdiction over his state-law claims. Those claims raise novel 3 interpretations of state statutes and would substantially predominate over the nonexistent federal 4 questions in this case.³⁶ And I conclude that this is an exceptional circumstance that supports 5 declining supplemental jurisdiction. So I dismiss Harvey’s state-law claims against U.S. Bank 6 for lack of subject-matter jurisdiction under 28 U.S.C. § 1367, without prejudice to Harvey’s 7 ability to refile those claims in state court. 8 C. Harvey’s request for leave to amend is denied because amendment would be futile. 9 In his response brief, Harvey requests “leave to amend the Complaint if this Court finds 10 any deficiencies.”³⁷ U.S. Bank opposes the request because leave to amend would not cure the 11 “core legal defects” in the complaint and would only “prolong the litigation and burden the Court 12 and Defendant with more meritless filings.”³⁸ While a court must “grant leave to amend freely 13 when justice so requires,”³⁹ leave to amend should be withheld if the deficiencies cannot be 14 cured and further amendments would be futile.⁴⁰ 15 Further amendment is futile here because Harvey cannot cure the defect in his federal 16 claim. No plausible amendment would transform Torrent Leasing or U.S. Bank into state actors 17 needed for a proper § 1983 claim. Harvey offhandedly mentions a federal 42 U.S.C. § 1985(3) 18 claim and a “federal banking law” claim for the first time in his response brief.⁴¹ Besides being 19 36 ECF No. 9 at 4

(referencing Nev. R. Stat. §§ 17.330, 21.090, and 21.112). 20 37 ECF No. 30 at 29. 21 38 ECF No. 23 at 4. 22 39 *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000) (cleaned up). 40 *Wheeler v. City of Santa Clara*, 894 F.3d 1046, 1059 (9th Cir. 2018) (“Leave to amend may be 23 denied if the proposed amendment is futile or would be subject to dismissal.”). 41 See ECF No. 30 at 7, 26. 1 procedurally improper, 42 amendment to add such federal claims would also be futile. A 2 § 1985(3) claim requires a conspiracy or agreement to deprive the plaintiff of his constitutional 3 rights. 43 Appearing in a typical court proceeding does not support an inference of a conspiracy, 4 and Harvey has identified no facts that could even come close to supporting such a claim. The 5 statutes that Harvey cites in support of his “federal banking law” claim do not give rise to a 6 private cause of action, 44 so he could not plead a plausible claim under that theory either. 7 Harvey similarly cannot cure the jurisdictional problems with his state-law claims. 8 Without federal-question and supplemental jurisdiction, the only viable basis for jurisdiction 9 would be diversity. Diversity jurisdiction requires an amount in controversy exceeding 10 \$75,000, 45 and “the sum claimed by the plaintiff controls unless it appears to a legal certainty 11 that the claim is really for less than the jurisdictional amount.” 46 Although Harvey’s complaint 12 alleges \$5,000,000 in damages, 47 stripped of puffery and conclusory labels, this is fundamentally 13 14 42 This district’s Local Rule 15-1(a) requires a party seeking to amend his pleading to attach a copy of the proposed amended pleading to his motion for leave to amend. This rule applies to 15 unrepresented parties as well as those with counsel. See, e.g., *Maluf v. Bergelectric Corp.*, 2023 WL 11827166, at *1 (D. Nev. Apr. 26, 2023). 16

43 See 42 U.S.C. § 1985(c); *Scott v. Ross*, 140 F.3d 1275, 1284 (9th Cir. 1998) (noting that a 17 § 1985(3) claim requires “the existence of a conspiracy to deprive the plaintiff of the equal protection of the laws”); *Pasadena Republican Club v. W. Just. Ctr.*, 985 F.3d 1161, 1171 (9th 18 Cir. 2021) (“§ 1985(3) provides a cause of action if two or more persons conspire to deprive an individual of his constitutional rights.”). 19 44 See, e.g., *Goziker v. Wells Fargo Bank, N.A.*, 2023 WL 8872294, at *7 (C.D. Cal. Oct. 17, 2023) (“Courts have held that 12 U.S.C. § 5531, a statute under which the Consumer Financial 20 Protection Bureau may bring a cause of action, does not provide a right of action for a private plaintiff.”); *Friess v. Mortg. L. Firm PC*, 2025 WL 2676089, at *6 (D. Ariz. Sept. 18, 2025) (“12 21 U.S.C. §§ 5552(a)(1), 5531 & 5536(a) . . . do not create a cause of action.”). 22 45 See, e.g., *Rosenwald*, 152 F.4th at 1173 (citing 28 U.S.C. § 1332(a)).

46 *Id.* at 1176.

23 47 ECF No. 9 at 5–6. He entirely attributes this amount to his defunct federal claims in his response brief, however. ECF No. 30 at 30. 1 a dispute over a \$19,647.48 garnishment. 48 Because the amount in controversy falls well short 2 of the jurisdictional threshold, any amendment to allege diversity jurisdiction would be futile. So 3 I deny Harvey’s request to amend. 49 4 D. The remaining claims against Torrent Leasing are also dismissed and the clerk’s 5 entry of default is set aside. 6 Torrent Leasing never appeared in this action. So only U.S. Bank moved to dismiss. But 7 a district court “may properly on its own motion dismiss an action as to defendants who

have not moved to dismiss where such defendants are in a position similar to that of moving 9 defendants.”⁵⁰ Because Torrent Leasing is also a private actor and is thus in a similar position as 10 U.S. Bank, I dismiss Harvey’s § 1983 claim against Torrent Leasing. I also dismiss without 11 prejudice the remaining state-law claims against Torrent Leasing for lack of subject-matter 12 jurisdiction under 28 U.S.C. § 1367. 13 The clerk also entered default against Torrent Leasing.⁵¹ Under Federal Rule of Civil

14 Procedure 55(c), “[t]he court may set aside an entry of default for good cause.” Because the 15 court lacked subject-matter jurisdiction over Harvey’s claims, I find good cause and vacate the 16 entry of default against Torrent Leasing.⁵² 17 18 48 ECF No. 9-2 at 34. 19 49 I also deny as moot U.S. Bank’s motion to stay the case. ECF No. 17. 20 50 *Silverton v. U.S. Dep’t of Treasury*, 644 F.2d 1341, 1345 (9th Cir. 1981). 51 ECF No. 34. 21 52 See, e.g., *Watts v. Pinckney*, 752 F.2d 406, 410 (9th Cir. 1985) (quoting *Jordan v. Gilligan*, 500 F.2d 701, 704 (6th Cir. 1974)) (holding that a judgment entered without subject- 22 matter jurisdiction “is a legal nullity and a court considering a motion to vacate has no discretion in determining whether it should be set aside”); see also *Poulson v. Bank of Am., N.A.*, 675 F. 23 App’x 650, 651 (9th Cir. 2017) (“The district court did not abuse its discretion in sua sponte setting aside the Clerk’s entry of default.”). 1 E. The parties are cautioned that using generative AI tools like ChatGPT may result in 2 sanctions. 3 As a final note, U.S. Bank has pointed to several cases cited in Harvey’s brief that are 4 incorrectly cited or are misquoted.⁵³ For example, Harvey cited to *Flangas v. Perfekt Marketing*, 5 but the citation he included corresponds instead to *Lawrence v. Clark County*,⁵⁴ and he included 6 a fake quote from the since-overruled Seventh Circuit decision *Nesses v. Shepard*.⁵⁵ Incidents of 7 fake authority cited in briefs have skyrocketed recently, and the use of generative AI software 8 like ChatGPT to conduct legal research and write briefs is often to blame. While AI tools can be 9 useful, and this court does not prohibit litigants from using them, those services pull information 10 from across the web—including from unreliable sources—and may hallucinate (or make up fake) 11 legal authority. 12 When an unrepresented litigant or attorney signs any filing before this court, he certifies 13 that “the claims, defenses, and other legal contentions are warranted by existing law.”⁵⁶ Using 14 AI to research and write briefs may violate this rule if hallucinated or inaccurate legal citations 15 are used to support arguments. Parties must verify that the authorities they cite are accurate and 16 real before presenting them to a court. There may be consequences, including sanctions, for the 17 continued reliance on inaccurate or fake authority in legal briefs. 18 19 20 21 53 ECF No. 32 at 3. 22 54 *Lawrence v. Clark County*, 254 P.3d 606 (Nev. 2011). 23 55 ECF No. 30 at 4, 8 (citing *Nesses v. Shepard*, 68 F.3d 1003, 1004 (7th Cir. 1995)). 56 Fed. R. Civ. P. 11(b)(2). Conclusion 2 IT IS THEREFORE ORDERED that U.S. Bank’s motion to dismiss [ECF No. 23] is GRANTED, and U.S. Bank’s motion to stay the case [ECF No. 17] is DENIED as moot. Harvey’s § 1983 claim is DISMISSED with prejudice, and the remaining state-law claims are 5] DISMISSED under 28 U.S.C. § 1367 without prejudice to his ability to refile those claims in 6] state court. The Clerk of the Court’s July 29, 2025, entry of default as to defendant

Torrent 7|| Leasing [ECF No. 34] is VACATED. The Clerk of Court is directed to ENTER JUDGMENT 8|| in favor of the defendants and against the plaintiff and CLOSE THIS CASE. 9 US. District J udge)J ennife A. orsey 1] Decembée-45, 2025 12 13 14 15 16 17 18 19 20 21 22 23 1]

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