

**UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
TEXAS, AUSTIN DIVISION**

Moath Benyamen Youse Asfour v. Uber Technologies Inc.

No. No. 1:25-cv-01898-ADA-SH, United States District Court for the Western District of Texas, Austin Division
(January 9, 2026)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION Moath Benyamen Youse Asfour, § Plaintiff § § v. § No. 1:25-cv-01898-
ADA-SH § Uber Technologies Inc., § Defendant ORDER AND REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE TO: THE
HONORABLE ALAN D ALBRIGHT UNITED STATES DISTRICT JUDGE Before the Court
are Plaintiff Moath Benyamen Youse Asfour's Complaint (Dkt.

1) and Motion to Proceed In Forma Pauperis (Dkt. 2), both filed November 21, 2025.¹ I.
Application to Proceed In Forma Pauperis Asfour seeks leave under 28 U.S.C. § 1915(a)(1) to file
his Complaint without having to prepay the filing fee or costs. Dkt. 2.

Under § 1915(a)(1), a court may permit a plaintiff to file an action “without prepayment of fees or
security therefor” if he shows by affidavit that he cannot pay such fees or security. Section 1915(a)
“is intended to provide access to federal courts for plaintiffs who lack the financial resources to
pay... statutory filing costs.” *Prows v. Kastner*, 842 F.2d 138, 140 (5th Cir.

1988). In making an in forma pauperis determination, a court should consider whether an
applicant may pay the filing fee without suffering undue financial hardship. *Id.* After reviewing
his application, the Court finds that Asfour cannot pay the filing fee without experiencing undue
financial hardship.

Accordingly, the Court GRANTS him in forma pauperis ¹ The District Court referred to this
Magistrate Judge all non-dispositive pretrial matters for disposition and all case-dispositive
motions for findings and recommendations, pursuant to 28 U.S.C. § 636(b)(1), Federal Rule of
Civil Procedure 72, Rule 1 of Appendix C of the Local Rules of the United States District Court
for the Western District of Texas, and Judge Alan D Albright's Standing Order on referrals to
United States Magistrate Judges.

Dkt. 3. status and ORDERS his Complaint to be filed without pre-payment of fees or costs. This
in forma pauperis status is granted subject to a later determination that the action should be
dismissed if the allegation of poverty is untrue or if, under § 1915(e)(2), the action is found to be

frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary damages against an immune defendant.

The Court also may impose costs of court against Asfour at the conclusion of this lawsuit, as in other cases. *Moore v. McDonald*, 30 F.3d 616, 621 (5th Cir. 1994). II. Frivolousness Review Under Section 1915(e)(2) Because Asfour has been granted leave to proceed in forma pauperis, the Court is required by standing order to review his complaint under § 1915(e)(2).

A district court shall dismiss a complaint filed in forma pauperis if it determines that the action is (1) frivolous or malicious, (2) fails to state a claim on which relief may be granted, or (3) seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B).

The Court liberally construes the pleadings of litigants who, like Asfour, proceed pro se. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). While pro se complaints are held to “less stringent standards than formal pleadings drafted by lawyers,” *Haines v. Kerner*, 404 U.S. 519, 520 (1972), a plaintiff’s pro se status offers “no impenetrable shield, for one acting pro se has no license to harass others, clog the judicial machinery with meritless litigation and abuse already overloaded court dockets.” *Ferguson v. MBank Houston, N.A.*, 808 F.2d 358, 359 (5th Cir.

1986). “The district courts of the United States are courts of limited jurisdiction, defined (within constitutional bounds) by federal statute.” *Badgerow v. Walters*, 596 U.S. 1, 7 (2022). A federal court has subject matter jurisdiction over civil cases “arising under the Constitution, laws, or treaties of the United States” and over civil cases in which the amount in controversy exceeds \$75,000, exclusive of interest and costs, and in which diversity of citizenship exists between the parties.

28 U.S.C. §§ 1331, 1332. It is presumed that a case lies outside this limited jurisdiction, and the burden of establishing the contrary rests on the party asserting jurisdiction. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). Asfour seeks to enforce an arbitration agreement with Defendant Uber Technologies Inc. Dkt. 1. He alleges that Uber violated a written agreement with him by deactivating his Uber Driver account without valid justification.

Id. at 1. Asfour alleges that he sought to arbitrate the dispute pursuant to a binding arbitration agreement, but Uber “refused to participate and declined to proceed.” *Id.* at 1. Asfour brings this lawsuit under the Federal Arbitration Act (“FAA”), 9 U.S.C. § 4, to compel Uber to arbitrate the dispute. *Id.* at 1-2. But the FAA does not create an independent basis for federal subject matter jurisdiction.

Kottke v. Midland Credit Mgmt., Inc., No. 1:24-CV-01509-DII, 2024 WL 5398816, at *2 (W.D. Tex. Dec. 11, 2024) (citing *Moses H. Cone Mem’l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 25 n.32 (1983)). Under § 4, a district court can entertain a petition to compel arbitration if the court

would have jurisdiction, “save for [the arbitration] agreement,” over “a suit arising out of the controversy between the parties.” *Vaden v. Discover Bank*, 556 U.S. 49, 53 (2009).

The court may “look through” the petition to the substantive controversy between the parties. *Id.* There must be diversity of citizenship between the parties or an independent federal question within the underlying dispute before the court can compel arbitration. *Moses H. Cone Mem’l Hosp.*, 460 U.S. at 25 n.32. Asfour relies on diversity of citizenship jurisdiction to establish subject matter jurisdiction, but he seeks only \$20,000 in damages.

Dkt. 1 at 2. “[T]he amount stated in the complaint is itself dispositive of jurisdiction if the claim is apparently made in good faith.” *Scarlott v. Nissan N. Am., Inc.*, 771 F.3d 883, 888 (Sth Cir. 2014). Because the amount in controversy alleged on the face of the complaint does not exceed \$75,000, the Court lacks subject matter jurisdiction. *il. Order The Court GRANTS Plaintiff Asfour’s Motion to Proceed In Forma Pauperis* (Dkt.

2). IV. Recommendation This Magistrate Judge RECOMMENDS that the District Court DISMISS without prejudice Asfour’s claims under 28 U.S.C. § 1915(e)(2) for lack of subject matter jurisdiction. The Court FURTHER ORDERS that the Clerk remove this case from this Magistrate Judge’s docket and return it to the docket of the Honorable Alan D Albright.

V. Warnings The parties may file objections to this Report and Recommendation. A party filing objections must specifically identify those findings or recommendations to which objections are being made. The District Court need not consider frivolous, conclusive, or general objections. See *Battle v. U.S. Parole Comm’n*, 834 F.2d 419, 421 (Sth Cir. 1987). A party’s failure to file written objections to the proposed findings and recommendations contained in this Report within fourteen (14) days after the party is served with a copy of the Report shall bar that party from de novo review by the District Court of the proposed findings and recommendations in the Report and, except on grounds of plain error, shall bar the party from appellate review of unobjected-to proposed factual findings and legal conclusions accepted by the District Court.

See 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140, 150-53 (1985); *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc). SIGNED on January 9, 2026.
oA! = SUSAN HIGHTOWER UNITED STATES MAGISTRATE JUDGE