

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Darrell Beauford Ellis v. PennyMac Loan Services LLC

No. CV-25-00677-TUC-JGZ · No. No. CV-25-00677-TUC-JGZ; 4:25-cv-00677 · Decided December 15, 2025

OPINION

1 WO 2 3 4 5 6 IN THE UNITED STATES DISTRICT COURT 7 FOR THE DISTRICT OF
ARIZONA 8 9 Darrell Beauford Ellis, No. CV-25-00677-TUC-JGZ 10 Plaintiff, ORDER 11 v. 12
PennyMac Loan Services LLC, 13 Defendant. 14 15 On December 8, 2025, pro se Plaintiff
Darrell Beauford Ellis filed a Complaint. 16 (Doc. 1.) Plaintiff has paid the filing fee and served
Defendant. (Docs.

2, 3, 4.) Upon 17 review of Plaintiff’s Complaint, the Court concludes it lacks jurisdiction and
must 18 dismiss the Complaint. 19 I. Plaintiff’s Complaint 20 Plaintiff brings this action
challenging the accuracy and validity of various 21 mortgage-related documents associated with
his home loan. Plaintiff alleges that he 22 originally executed a Promissory Note naming
Wyndham Capital Mortgage, Inc. as the 23 lender, and that the Note contains no endorsements,
allonges, or markings indicating that 24 it was ever negotiated or transferred to any other entity.

(Doc. 1 ¶ 11.) Plaintiff likewise 25 executed a Deed of Trust listing Wyndham Capital Mortgage,
Inc. as beneficiary, and 26 alleges that county land records reflect no Assignment of Deed of Trust
at any point after 27 origination. (Id. at ¶ 12.) 28 1 Plaintiff later entered into a Loan Modification
Agreement identifying PennyMac 2 Loan Services, LLC as “Lender,” despite the absence of any
documentation showing that 3 PennyMac acquired the Note or beneficial interest in the Deed of
Trust.

(Id. at ¶ 13.) 4 Plaintiff states that after reviewing the Note, Deed of Trust, modified loan
documents, 5 and publicly available land records, he observed inconsistencies relating to the
identity of 6 the lender, beneficiary, servicer, and any party asserting ownership or enforcement
rights 7 under the loan. (Id. at ¶ 14.) 8 Plaintiff relies in part on the Office of the Comptroller of
the Currency (“OCC”) 9 Asset Securitization Manual, which he states describes documentation
standards for 10 mortgage transfers and securitizations.

(Id. at ¶¶ 15–19.) Plaintiff compares the OCC 11 standards to a third-party “Mortgage Audit” he
obtained, which allegedly identifies 12 several contradictions and “document gaps” relating to his
loan. According to Plaintiff, 13 the audit concludes that the Note was associated with “Ginnie Mae
REMIC Trust 2021- 14 116,” although neither the Note nor the Deed of Trust reflects
endorsements or 15 assignments supporting such a transfer.

(Id. at ¶¶ 21–24.) 16 The Complaint further alleges discrepancies between county land records and the 17 MERS system, asserting that the MERS database lists an investor and servicer that do not 18 correspond to recorded instruments. (Id. at ¶ 26.) Plaintiff states that no custodial records, 19 loan schedules, or transfer receipts exist to document conveyance of the Note into any 20 trust, including the Ginnie Mae REMIC trust identified in the audit.

(Id. at ¶¶ 27–28.) 21 Plaintiff summarizes these issues as demonstrating the absence of a verifiable 22 chain of title connecting the original lender to any entity presently claiming rights under 23 the loan. (Id. at ¶¶ 29–33.) He further asserts that public land records, securitization data, 24 and servicing records identify different entities in key roles without any documentation 25 establishing how or when those entities acquired an interest in the Note or Deed of Trust.

26 (Id. at ¶¶ 34–39.) Based on these alleged contradictions, Plaintiff brings claims for 27 declaratory relief, cancellation of instruments, and injunctive relief. (Id. at ¶¶ 40–52.) He 28 seeks a judicial declaration identifying the entity legally entitled to enforce the Note and 1 Deed of Trust; cancellation of any instruments he believes to be unsupported by a valid 2 chain of title; and an injunction preventing PennyMac from enforcing the loan until these 3 issues are resolved.

(Id. at ¶ 52.) 4 Federal courts are courts of limited jurisdiction and may only adjudicate those 5 cases over which they have subject matter jurisdiction—cases involving diversity of 6 citizenship or a federal question. *Kokkonen v. Guardian Life Ins. Co. of America*, 511 7 U.S. 375 (1994). Where there is neither diversity nor an alleged violation of federal law, 8 this Court has no jurisdiction and must dismiss the action.

See Fed. R. Civ. P. 12(h)(3) 9 (“If the court determines at any time that it lacks subject-matter jurisdiction, the court 10 must dismiss the action.”). “[C]ourts have an independent obligation to determine 11 whether subject matter jurisdiction exists, even in the absence of a challenge from any 12 party.” *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583 (1999).

13 Here, Plaintiff fails to allege any facts establishing federal question jurisdiction. 14 Although he cites the Declaratory Judgment Act, that Act does not itself confer 15 jurisdiction. See *Staacke v. U.S. Sec’y of Lab.*, 841 F.2d 278, 280 (9th Cir. 1988).

The 16 Complaint does not identify any federal statute or constitutional provision that Defendant 17 is alleged to have violated, and Plaintiff’s references to OCC guidelines and MERS data 18 do not create a private right of action or independently establish federal question 19 jurisdiction. See *Save Our Valley v. Sound Transit*, 335 F.3d 932, 939 (9th Cir. 2003); 20 *Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1043–44 (9th Cir.

2011). 21 Plaintiff also does not allege when the inconsistencies occurred, how they caused him 22 injury, or what conduct by Defendant created a justiciable federal controversy. 23 Plaintiff also fails to establish diversity jurisdiction.

Although he alleges that he 24 resides in Arizona and that PennyMac Loan Services, LLC has its principal place of 25 business in California (Doc. 1 at ¶¶ 8–9), an LLC’s citizenship is determined by the 26 citizenship of each of its members. *Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 27 894, 899 (9th Cir. 2006). Plaintiff does not identify the citizenship of any of PennyMac’s 28 members, nor does he allege the amount in controversy as required by 28 U.S.C. § 1 1332(a).

Without these allegations, the Court cannot conclude that diversity jurisdiction 2 exists. 3 II. Filing an Amended Complaint 4 Within 30 days, Plaintiff may submit an amended complaint to cure the 5 deficiencies outlined above.

The court-approved general civil complaint form is attached 6 to this Order and available on the Court website (the form is titled “Complaint for a Civil 7 Case”). Alternatively, Plaintiff may use the Court’s “Create a New Complaint: Electronic 8 Pro Se (E-Pro Se) Program” available on the Court’s website at 9 <https://publicapps.azd.uscourts.gov/eprose> or seek assistance from Step Up to Justice, a 10 free legal clinic.¹ 11 Plaintiff must clearly designate on the face of the document that it is the “first 12 amended complaint.” The first amended complaint must be retyped or rewritten in its 13 entirety on the court-approved form or by using the E-Pro Se online program, and may 14 not incorporate any part of the original Complaint by reference.

Plaintiff may include 15 only one claim per count. 16 In an amended complaint, Plaintiff must allege a cognizable legal theory, identify 17 the statutory or constitutional basis for each cause of action, state facts showing each 18 defendant’s involvement in the wrongful acts alleged, and explain how the alleged 19 documentary inconsistencies give rise to a claim within the Court’s jurisdiction.

As 20 currently drafted, the Complaint does not provide sufficient factual detail to determine 21 who took what actions, when those actions occurred, or whether the asserted claims are 22 properly before the Court. 23 1 The Clerk of Court sent Plaintiff the Notice to Pro-Se Non-Prisoner Parties 24 Representing Themselves, the Court’s Notice to Self-Represented Litigant, and the Step Up to Justice flyer for Free Civil Legal Help.

(Doc. 3.) The Plaintiff is advised the 25 resources available to self-represented parties are listed on the District Court website: <https://www.azd.uscourts.gov/proceeding-without-attorney-0>. That webpage also 26 contains A Handbook for Self-Represented Litigants, <https://publicapps.azd.uscourts.gov/prose-survey/>, as well as the Federal Rules of Civil 27 Procedure and Local Rules of Practice for the District of Arizona (also known as the Local Rules of Civil Procedure, or LRCiv).

28 1 In addition to alleging facts to support federal jurisdiction, the Amended 2 Complaint must comport with Rule 8 of the Federal Rules of Civil Procedure which 3 provides that the pleading

shall contain “a short and plain statement of the claim showing 4 that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2).

The purpose of Rule 8 is to 5 prevent vague and ambiguous claims and ensure that defendants will be able to frame a 6 responsive pleading. 7 In drafting the Amended Complaint, the Plaintiff must include sufficient factual 8 details so that this Court can determine each claim existing against each Defendant.

The 9 Plaintiff must refer by name to particular Defendants, whenever possible, in the body of 10 the Amended Complaint, so that it is possible to determine which Defendant is being 11 charged with responsibility for each particular grievance. See *Jackson v. Nelson*, 405 12 F.2d 872, 873 (9th Cir. 1968). 13 Plaintiff’s “obligation to provide the grounds of his entitlement to relief requires 14 more than labels and conclusions, and a formulaic recitation of the elements of a cause of 15 action will not do.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

At the 16 pleading stage, the Plaintiff must allege enough facts, if taken as true, to suggest that a 17 claim exists. This does not impose a probability requirement at the pleading stage, it 18 simply calls for enough facts to raise a reasonable expectation that discovery will reveal 19 evidence to support the claim. *Id.* at 555–556. “[F]actual allegations must be enough to 20 raise a right to relief above the speculative level,... on the assumption that all the 21 allegations in the complaint are true even if doubtful in fact.” *Id.* 22 A first amended complaint supersedes the original Complaint.

Ferdik v. Bonzelet, 23 963 F.2d 1258, 1262 (9th Cir. 1992), as amended (May 22, 1992); *Hal Roach Studios, 24 Inc. v. Richard Feiner & Co.*, 896 F.2d 1542, 1546 (9th Cir. 1989). After amendment, 25 the Court will treat the original Complaint as nonexistent. See *Ferdik*, 963 F.2d at 1262. 26 III. Warnings 27 Address Changes 28 If Plaintiff moves residences, he must file a notice of a change of address in 1 || accordance with Rule 83.3(d) of the Local Rules of Civil Procedure.

Plaintiff must not 2|| include a motion for other relief with a notice of change of address. Failure to comply 3 || may result in dismissal of this action. 4 Possible Dismissal 5 If Plaintiff fails to timely comply with every provision of this Order, including 6 || these warnings, the Court may dismiss this action without further notice. See *Ferdik*, 963 7\ F.2d at 1260-61 (a district court may dismiss an action for failure to comply with any 8 || order of the Court).

9 Accordingly, 10 IT IS ORDERED: 11 (1) the Complaint (Doc. 1) is dismissed sua sponte. 12 (2) Plaintiff has 30 days from the date this Order is filed to file a first amended 13 complaint in compliance with this Order. 14 (3) If Plaintiff fails to file an amended complaint within 30 days, the Clerk of 15 Court must, without further notice, enter a judgment of dismissal of this action 16 with prejudice and deny any pending unrelated motions as moot.

17 Dated this 15th day of December, 2025. 18 20 Jennifer G. Ti ps 21 Chiet United States District
Judge 22 23 24 25 26 27 28 -6-

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