

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
VIRGINIA, ALEXANDRIA DIVISION

Vicky Hoang Nguyen v. Khoa Dang Hoang

Nguyen · No. 1:23-cv-193 (PTG/IDD) · Decided March 11, 2026

SUMMARY

The United States District Court for the Eastern District of Virginia reviews objections to a magistrate judge’s report and recommendation concerning a motion for default judgment. The court overrules the objections, adopts the report and recommendation, grants default judgment on a conversion-of-funds claim, denies relief on the remaining claims, and enters judgment for the plaintiff in the amount of \$133,648.00.

CASE DETAILS

COURT	United States District Court for the Eastern District of Virginia, Alexandria Division
WRITING FOR THE COURT	Patricia Tolliver Giles
JURISDICTION	United States District Court for the Eastern District of Virginia, Alexandria Division
DECIDED	March 11, 2026
DOCKET	1:23-cv-193 (PTG/IDD)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff objected to a magistrate judge's Report and Recommendation concerning her motion for default judgment. The district court conducted de novo review of the challenged portions, overruled the objections, adopted the Report and Recommendation in full, and granted default judgment in part and denied it in part.
STANDARD OF REVIEW	Under Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b) (1)(C), the district court reviews de novo those portions of a magistrate judge's Report and Recommendation to which specific objections are made. General or conclusory objections, and arguments raised for the first time in objections, do not require disturbance of the magistrate judge's decision.
PRECEDENTIAL VALUE	unpublished district court order

PARTIES

Vicky Hoang Nguyen v. Khoa Dang Hoang

TOPICS

default judgment

civil procedure

negligence

intentional infliction of emotional distress

tax

PRACTICE AREAS

civil procedure

default judgment

torts

tax law

remedies

QUESTIONS PRESENTED

1. Whether Plaintiff's objections to the magistrate judge's Report and Recommendation were sufficiently specific and properly presented for de novo review.
2. Whether Virginia's identity-theft, forgery, Maryland tax, and Virginia tax statutes provide Plaintiff with private civil causes of action.
3. Whether federal identity-theft and aggravated-identity-theft statutes provide Plaintiff with a private civil remedy.
4. Whether Plaintiff could raise a negligence per se theory for the first time in objections to the Report and Recommendation.
5. Whether Plaintiff adequately alleged outrageous conduct and severe emotional distress for an intentional infliction of emotional distress claim under Virginia law.
6. Whether intentional and malicious conduct can support simple negligence, gross negligence, willful and wanton negligence, or negligence per se claims.
7. Whether Plaintiff showed good cause to amend the complaint to change the asserted conversion property after default judgment was granted on the conversion count.

HOLDINGS

1. A district court need not disturb a magistrate judge's decision based on arguments not presented to the magistrate judge, and merely restating prior arguments or reciting legal standards does not satisfy the requirement that objections be specific and particularized.
2. Virginia Code § 18.2-186.3 and the federal identity-theft statutes cited by Plaintiff impose criminal liability and do not provide a private civil cause of action or civil remedy. The Virginia criminal forgery and uttering statute likewise does not provide a standalone private right of action.
3. Plaintiff could not recover under 26 U.S.C. § 7201 because it is a criminal provision, and Plaintiff could not assert a claim under 26 U.S.C. § 7434 for the first time in objections when the complaint pleaded § 7201 instead.
4. The Maryland and Virginia tax statutes cited in Counts VII and VIII do not confer a private right of action.
5. Plaintiff's allegations did not establish conduct sufficiently outrageous or emotional distress sufficiently severe to support an intentional infliction of emotional distress claim under Virginia law.

6. A party cannot prevail on a simple negligence claim based on an intentional act, and negligence per se is not a distinct cause of action; it may establish a standard of care only as part of a viable common-law negligence claim. Because Plaintiff alleged intentional and malicious conduct, the allegations did not support negligence, gross negligence, willful and wanton negligence, or negligence per se.
7. Plaintiff failed to show good cause for leave to amend the complaint to change the conversion claim from conversion of an Audi SUV to conversion of \$20,000 after default judgment had been granted on the claim.

KEY QUOTATIONS

““objections must be specific and particularized . . . to direct the attention of the district court to ‘only those issues that remain in dispute after the magistrate judge has made findings and recommendations.’” (Dkt. 27 at 3)

““so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.”” (Dkt. 27 at 9–14)

“The doctrine of negligence per se is not a distinct cause of action.” (Dkt. 27 at 14–17)

“It is well-established that a party cannot prevail on a simple negligence claim based on an intentional act.” (Dkt. 27 at 14–17)

FACTUAL BACKGROUND

Plaintiff alleged that Defendant engaged in conduct involving identity theft, aggravated identity theft, forgery and uttering, federal and state tax fraud, conversion, intentional infliction of emotional distress, and negligence. The court treated the alleged conduct as intentional and malicious and concluded that several cited criminal statutes did not create private civil causes of action. The court also found that Plaintiff's allegations did not satisfy Virginia's demanding standards for outrageous conduct or severe emotional distress and could not support negligence or negligence per se claims.

PROCEDURAL HISTORY

Magistrate Judge Ivan D. Davis issued a July 9, 2025 Report and Recommendation addressing Plaintiff's motion for default judgment. Plaintiff timely objected to the recommendations concerning multiple statutory and tort claims. The district court overruled the objections, approved and adopted the Report and Recommendation, granted default judgment on Count I, denied it on the remaining challenged counts and other specified counts, and entered judgment for Plaintiff in the amount of \$133,648.00.

DISPOSITION

other

CASES CITED

- United States v. Kotzev, No. 1:18-cv-1409, 2020 WL 1217153, at *3 (E.D. Va. Mar. 11, 2020)

- United States v. Midgett, 478 F.3d 616, 621 (4th Cir. 2007)
- Petersen v. DC Mech., LLC, 2022 WL 22695554, at *1 (E.D. Va. Aug. 24, 2022)
- Black & White Cars, Inc. v. Groome Transp. Inc., 442 S.E.2d 391, 394 (Va. 1991)
- Jesselson v. Outlet Assocs. of Williamsburg, Ltd. P'ship, 784 F. Supp. 1223, 1228 (E.D. Va. 1991)
- Miller v. Colonial Pipeline Oil Co., 2022 WL 2718555, at *4 (E.D. Va. June 24, 2022), aff'd sub nom. Miller v. Colonial Pipeline Co., 2022 WL 17848953 (4th Cir. Dec. 22, 2022)
- Hilgeford v. Nat'l Union Fire Ins. Co. of Pittsburgh, 2009 WL 302161, at *4 (E.D. Va. Feb. 6, 2009)
- Rahmani v. Resorts Int'l Hotel Inc., 20 F. Supp. 2d 932, 937 (E.D. Va. 1998), aff'd, 182 F.3d 909 (4th Cir. 1999)
- Troy McRae v. Joseph Norton, 2012 WL 1268295, at *4 (E.D.N.Y. Apr. 13, 2012)
- U.S. ex rel. Lissack v. Sakura Glob. Cap. Mkts., Inc., 377 F.3d 145, 153 (2d Cir. 2004)
- Abou-Hussein v. Mabus, 2010 WL 4340935, at *1 (D.S.C. Oct. 28, 2010), aff'd, 414 F. App'x 518 (4th Cir. 2011)
- Russo v. White, 400 S.E.2d 160, 162–63 (Va. 1991)
- Harris v. Kreutzer, 624 S.E.2d 24, 33–34 (Va. 2006)
- Smith v. Lusk, 533 F. App'x 280, 284 (4th Cir. 2013)
- Johnson v. Westlake Flooring Co., LLC, 744 F. Supp. 3d 622 (E.D. Va. 2024)
- Talley v. Danek Med., Inc., 179 F.3d 154, 158 (4th Cir. 1999)
- Green v. Ingram, 608 S.E.2d 917, 924 (Va. 2005)
- Griffin v. Shively, 315 S.E.2d 210, 213 (Va. 1984)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA
 Alexandria Division VICKY HOANG NGUYEN,) Plaintiff, v. 1:23-cv-193 (PTG/IDD) KHOA
 DANG HOANG, Defendant.) ORDER This matter comes before the Court on the July 9, 2025
 Report and Recommendations (“R&R”) from Magistrate Judge Ivan D. Davis regarding Plaintiff
 Vicky Hoang Nguyen’s Motion for Default Judgment (Dkt.

20) against Defendant Khoa Dang Hoang. Dkt. 26. Judge Davis advised the parties that objections
 to the R&R must be filed within fourteen days of service, and failure to object waives appellate
 review. *Jd.* at 26. Plaintiff filed timely objections. Dkt. 27. When reviewing a magistrate judge’s
 R&R, the Court must make a *de novo* determination of those portions of the R&R to which
 objections, if any, are made.

Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1)(C). The Court is authorized to accept, reject, or
 modify, in whole or in part, the recommendations made by the magistrate judge. *Jd.* “[O]bjections
 must be specific and particularized... to direct the attention of the district court to ‘only those
 issues that remain in dispute after the magistrate judge has made findings and recommendations.’”
United States v. Kotzev, No. 1:18-cv-1409, 2020 WL 1217153, at *3 (E.D.

Va. Mar. 11, 2020) (quoting *United States v. Midgette*, 478 F.3d 616, 621 (4th Cir. 2007)). Plaintiff's objections pertain to Judge Davis's recommendations as to Counts II and III on identity theft, Count IV on aggravated identity theft, Count V on forgery and uttering, Count VI on tax fraud, Count VII on Maryland tax fraud, Count VIII on Virginia tax fraud, Count XI on intentional infliction of emotional distress, and Count XII on negligence.!

Dkt. 27. The Court overrules Plaintiff's objections for the reasons that follow. Counts H and I! (Identity Theft Pursuant to Va. Code § 18.2-186.3) Plaintiff contends that she is entitled to damages from Defendant for his statutory violations of Virginia Code § 18.2-186.3 from identity theft. /d. at 3.

However, as Judge Davis correctly concludes, § 18.2-186.3 is a criminal statute and does not provide a private right of action. Dkt. 26 at 15-16; *Petersen v. DC Mech., LLC*, 2022 WL 22695554, at *1 (E.D. Va. Aug. 24, 2022) (citing *Black & White Cars, Inc. v. Groome Transp. Inc.*, 442 8.E.2d 391, 394 (Va. 1991)). Plaintiff does not directly dispute this finding but rather reframes the identity theft counts as negligence per se claims.

Dkt. 27 at 5. Plaintiff never raised this argument before Judge Davis, and “[a] magistrate’s decision should not be disturbed on the basis of arguments not presented to him.” *Jesselson v. Outlet Assocs. of Williamsburg, Ltd. P’ship*, 784 F. Supp. 1223, 1228 (E.D. Va. 1991).

Accordingly, the Court overrules Plaintiff's objection as to Counts II and III. Count IV (Aggravated Identity Theft, 18 U.S.C. §§ 1028A, 1344) Similarly, Plaintiff objects to Judge Davis's recommendation as to Count IV on the basis of a new negligence per se argument. Dkt. 27 at 3.

For the reasons stated above, the Court overrules Plaintiff's objection and adopts Judge Davis's conclusion that the federal identity theft statutes set forth criminal liability, not a private cause of action or civil remedy. Dkt. 26 at 17; ' Further, while Plaintiff does not object to the Magistrate Judge's finding as to Count IX (Conversion of Audi SUV), she requests leave to amend to correct the Complaint to state “conversion of the \$20,000” instead of “conversion of the vehicle.” Dkt.

27 at 2. The Court finds no good cause to permit leave to amend given its order granting default judgment as to Count [IX below. *Rahmani v. Resorts Int’l Hotel Inc.*, 20 F. Supp. 2d 932, 937 (E.D. Va. 1998), *aff’d*, 182 F. 3d 909 (4th Cir. 1999).

Accordingly, the Court overrules Plaintiff's objection as to Count IV. Count V (Forgery and Uttering) Plaintiff's objections to Judge Davis's recommendation as to Count V echo her prior arguments in the Motion for Default Judgment. Dkt. 27 at 5.

As with Counts II and III], Count V is premised on a Virginia criminal statute that does not “provide a standalone right of action[.]” *Miller v. Colonial Pipeline Oil Co.*, 2022 WL 2718555, at

*4 (E.D. Va. June 24, 2022), *aff'd sub nom. Miller v. Colonial Pipeline Co.*, 2022 WL 17848953 (4th Cir. Dec. 22, 2022) (citing *Hilgeford v. Nat'l Union Fire Ins. Co. of Pittsburgh*, 2009 WL 302161, at *4 (E.D.

Va. Feb. 6, 2009)). Plaintiff offers no objection beyond Plaintiff's "personal interest and a personal right not to have her signature be forged." Dkt. 27 at 5. Accordingly, the Court overrules Plaintiff's objection as to Count V. Count VI (Federal Tax Fraud) Plaintiff argues that the R&R erroneously relies on 26 U.S.C. § 7401 with respect to Count VI and instead argues that 26 U.S.C. § 7434 for civil damages applies. /d.

However, the Complaint states a claim under 26 U.S.C. § 7201, not § 7434, and Plaintiff cannot raise the issue for the first time in her objections. Dkt. 19 at 71-76. As Judge Davis notes, 26 U.S.C. § 7201 is a criminal provision. Dkt. 26 at 18. Further, Plaintiff is correct that 26 U.S.C. § 7401 applies to actions by the United States. Dkt. 27 at 6. Indeed, as the R&R reasons, courts have read § 7401 to confer exclusive jurisdiction over tax matters to the Internal Revenue Service, such that "there is no private right of action to recover taxes on behalf of the government." See *Troy McRae v. Joseph Norton*, 2012 WL 1268295, at *4 (E.D.N.Y.

Apr. 13, 2012); see also *U.S. ex rel. Lissack v. Sakura Glob. Cap. Mkts., Inc.*, 377 F.3d 145, 153 (2d Cir. 2004) ("[T]he IRS has exclusive jurisdiction over tax matters[.]"). Accordingly, the Court overrules Plaintiff's objection as to Count VI. Counts VII (Maryland Tax Code § 13-1024 — Willfully Providing False Tax Information) and VIII (Virginia Tax Fraud Code § 58.1-452 — Fraudulent Returns) On both Counts VII and VIII, Plaintiff's objections do not address the crux of the R&R: that neither the Maryland nor Virginia tax statutes confer a private right of action.

Dkt. 27 at 18- 19. Rather, Plaintiff reiterates arguments from the Motion for Default Judgment, which are not directly responsive to Judge Davis's reasoning. See Dkt. 21 at 17-18. "Simply restating a previously made argument does not satisfy the specificity requirement of objections." *Abou- Hussein v. Mabus*, 2010 WL 4340935, at *1 (D.S.C. Oct. 28, 2010), *aff'd*, 414 Fed.

Appx. 518 (4th Cir. 2011). Accordingly, the Court overrules Plaintiff's objections as to Counts VII and VIII. Count XI (Intentional Infliction of Emotional Distress) With respect to Count XI, Plaintiff challenges Judge Davis's findings that Plaintiff did not adequately allege the elements of outrageous conduct and severe distress required for a successful intentional infliction of emotional distress ("ITED") claim.

Dkt. 27 at 9-14. Under Virginia law, outrageous conduct under IIED is characterized as conduct "so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community." *Russo v. White*, 400 S.E.2d 160, 162 (Va. 1991). Plaintiff suggests that where a crime involves lengthy imprisonment, it meets the standard for outrageous conduct.

Dkt. 27 at 10-11. That is not the case. Rather, the bar for outrageous conduct is extremely high. See *Harris v. Kreutzer*, 624 S.E.2d 24, 33-34 (Va. 2006). Plaintiff's allegations about Defendant's fraudulent activities, while unfortunate, do not amount to the high bar of "so extreme in degree, as to go beyond all possible bounds of decency." *Russo*, 400 S.E.2d at 162; see also *Harris*, 624 S.E.2d at 33-34 (finding allegations insufficient to support outrageous conduct where defendant "verbally abused [plaintiff], raised his voice to her, caused her to break down in tears...").

Further, an ITED claim can only succeed where the Plaintiff has shown "emotional distress is extreme... and so severe that no reasonable person could be expected to endure it." *Id.* The Virginia Supreme Court in *Russo v. White* found the plaintiff's distress did not meet the bar of severe under an IIED claim where she never alleged "that she had any physical injury caused by the stress, that she sought medical attention, that she was confined at home or in a hospital, or that she lost income." *Id.* at 163.

Furthermore, in *Harris v. Kreutzer*, the court similarly found that the alleged distress was not severe enough for ITED even where the plaintiff had physical symptoms that required psychological treatment and counseling. 624 S.E.2d at 34. Plaintiff's allegations here are nearly identical to those in *Russo* and *Harris*. Dkt. 1 (42).

However, those allegations, under Virginia law, do not meet the high standard of severity for IED. Accordingly, the Court overrules Plaintiff's objection as to Count XI. Count XI (Negligence) Finally, Plaintiff objects to the R&R's findings as to Count XII on negligence. Dkt. 27 at 14.

The R&R concludes that Plaintiff's allegations do not amount to negligence, where the conduct alleged is intentional in nature. Dkt. 26 at 22-23. Further, the R&R finds that Defendant's alleged actions "do not demonstrate traits associated with gross negligence or willful and wanton negligence, such as 'absence of slight diligence, [] the want of even scant care,' or reckless indifference to consequences." *Id.* (quoting *Green v. Ingram*, 608 S.E.2d 917, 924 (Va.

2005); and citing *Griffin v. Shively*, 315 S.E.2d 210, 213 (Va. 1984)). First, although Plaintiff agrees that Defendant's actions were "intentional" and "malicious," Plaintiff nonetheless argues that his actions demonstrate a "failure to use ordinary care" under the tort of negligence. Dkt. 27 at 14. It is well-established that a party cannot prevail on a simple negligence claim based on an intentional act.

Smith v. Lusk, 533 F. App'x 280, 284 (4th Cir. 2013); *Johnson v. Westlake Flooring Co., LLC*, 744 F. Supp. 3d 622 (E.D. Va. 2024). Therefore, Defendant's intentional and malicious conduct cannot be a basis for a simple negligence claim. With respect to the R&R's findings on gross negligence and willful and wanton negligence, Plaintiff reiterates the same points she made in the Motion for Default Judgment.

Jd.; see also Dkt. 21. This does not meet the specificity requirement of R&R objections. Abou-Hussein, 2010 WL 4340935, at #1. Nor does Plaintiff offer any argument beyond a conclusory restatement of the legal standards. Dkt. 27 at 15-17.

Finally, Plaintiff contends the Magistrate Judge failed to address her negligence per se claims, which suggest that Defendant's violation of several criminal statutes amounts to violating a duty under a negligence theory. Dkt. 27 at 14-15.

The doctrine of negligence per se is not a distinct cause of action. Rather, the doctrine posits that a statute can establish a "standard of care" under the elements of common law negligence, provided that the plaintiff establishes the other elements of negligence. *Talley v. Danek Med., Inc.*, 179 F.3d 154, 158 (4th Cir. 1999).

Therefore, in light of the principle that intentional acts cannot form a basis for a negligence claim, Plaintiff does not state a plausible claim for negligence per se. Accordingly, the Court overrules Plaintiff's objections as to Count XII.

After reviewing the record and the objections to the R&R, and having made de novo determinations with respect thereto, the Court hereby OVERRULES Plaintiff's Objections (Dkt. 27) and APPROVES and ADOPTS IN FULL the findings Judge Davis set forth in the RER (Dkt. 26).

Accordingly, it is hereby ORDERED that Plaintiff's Motion for Default Judgment (Dkt. 20) is GRANTED in part and DENIED in part. The Motion is GRANTED as to Count I (Conversion of Funds from Business Accounts). The Motion is DENIED as to Counts II and III (Identity Theft Pursuant to Va. Code § 18.2-186.3), IV (Aggravated Identity Theft, 18 U.S.C. §§ 1028A, 1344), V (Forgery and Uttering), VI (Federal Tax Fraud), VII (Maryland Tax Code § 13-1024 — Willfully Providing False Tax Information), VIII (Code of Virginia § 58.1-452 — Fraudulent Returns), [X (Conversion of Audi SUV), X (Conversion of Costco Account), XI (Intentional Infliction of Emotional Distress), and XII (Willful and Wanton Negligence, Gross Negligence); it is further ORDERED that Plaintiff's Objections to the R&R (Dkt.

27) are OVERRULED; and it is further ORDERED that judgment is ENTERED by default in favor of Plaintiff Vicky Hoang Nguyen and against Defendant Khoa Dang Hoang, in the amount of \$ 133,648.00. The Clerk of Court is directed to enter judgment in favor of Plaintiff, and against Defendant, as set forth above, pursuant to Federal Rule of Civil Procedure 55.

The Clerk is further directed to forward a copy of this Order to all parties of record. To appeal this decision, a party must file a written notice of appeal with the Clerk of the Court within thirty (30) days of the date of entry of this Order. A notice of appeal is a short statement indicating a desire to appeal, including the date of the order the party wants to appeal.

The party need not explain the grounds for appeal until so directed by the court of appeals. Failure to file a timely notice of appeal waives the party's right to appeal this decision. Entered this [tiay of March, 2026. Alexandria, Virginia gy Patricia Tolliver Giles United States District Judge

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