UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Daniels v. Verizon Wireless

Daniels · No. 25-cv-06720-SI · Decided September 23, 2025

SUMMARY

The United States District Court for the Northern District of California grants Brandon Daniels's application to proceed in forma pauperis, denies his motion for a temporary restraining order, and dismisses the complaint for failure to state a claim. The court identifies problems concerning the plaintiff's identity and representation, consent to jurisdiction, and the asserted claims under the Fair Debt Collection Practices Act, 42 U.S.C. § 1983, and 15 U.S.C. § 78j(b). The dismissal is with leave to amend by October 14, 2025, although the conclusion contains an apparent typographical reference to October 14, 2005.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Susan Illston
JURISDICTION	United States District Court for the Northern District of California
DECIDED	September 23, 2025
DOCKET	25-cv-06720-SI
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed a complaint, an application to proceed in forma pauperis, and a motion for a temporary restraining order. The district court granted in forma pauperis status, denied the temporary restraining order, screened the complaint under 28 U.S.C. § 1915(e)(2)(B), dismissed the complaint for failure to state a claim, and granted leave to amend.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915(e)(2)(B), the court must dismiss an action proceeding in forma pauperis at any time if it is frivolous or malicious, fails to state a claim, or seeks monetary relief from an immune defendant. For a temporary restraining order or preliminary injunction, the plaintiff must establish likelihood of success on the merits, likely irreparable harm, favorable balance of equities, and that an injunction is in the public interest.

PRECEDENTIAL VALUE unpublished district court order

TOPICS

motions to dismiss · injunctions · fair debt collection · pleadings · civil procedure

PRACTICE AREAS

federal civil procedure · consumer protection · civil rights · injunctive relief

QUESTIONS PRESENTED

1. Whether the complaint stated a claim under 28 U.S.C. § 1915(e)(2)(B).
2. Whether the plaintiff could proceed on behalf of a purported legal entity or principal without demonstrating that he was an attorney authorized to represent that entity or person.
3. Whether the complaint adequately alleged a Fair Debt Collection Practices Act claim.
4. Whether the complaint adequately alleged a claim under 42 U.S.C. § 1983 against private Verizon defendants.
5. Whether the complaint stated a claim under 15 U.S.C. § 78j(b), which concerns securities transactions.
6. Whether plaintiff was entitled to a temporary restraining order.

HOLDINGS

1. The complaint failed to state a claim and was subject to dismissal under 28 U.S.C. § 1915(e)(2)(B).
2. The privilege to proceed pro se is personal to the litigant and does not permit a nonlawyer to represent another person or entity, including through a power of attorney.
3. By filing suit in federal court, a plaintiff consents to the court's jurisdiction for purposes for which justice to the defendant requires the plaintiff's presence.
4. The complaint failed to state a claim under the Fair Debt Collection Practices Act because it did not allege that defendants were debt collectors collecting debts for others, and it cited 15 U.S.C. § 1692(f), a nonexistent subsection, while treating § 1692(e) as a substantive prohibition.
5. The complaint failed to state a claim under 42 U.S.C. § 1983 because it did not plausibly allege that the private Verizon defendants acted under color of state law.
6. The complaint failed to state a claim under 15 U.S.C. § 78j(b) because none of its allegations concerned the purchase or sale of securities.
7. The motion for a temporary restraining order was denied because plaintiff did not establish a likelihood of success on the merits, among the required preliminary-relief factors.

KEY QUOTATIONS

> *“It is well established that the privilege to represent oneself pro se provided by [28 U.S.C.] § 1654 is personal to the litigant and does not extend to other parties or entities.”* (at 2)

> *“When a plaintiff files suit in federal court, he necessarily consents to that Court’s jurisdiction.”* (at 2)

> *“In order to obtain a temporary restraining order or a preliminary injunction, plaintiff “must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.””* (at 3)

FACTUAL BACKGROUND

Plaintiff alleged that he transmitted payment and a remittance coupon to Verizon Wireless in April and July 2025 to satisfy a purported past-due account balance. He alleged that Verizon failed to process or accept the payment and disconnected his service on or about July 27, 2025. The complaint also asserted claims under the Fair Debt Collection Practices Act, 42 U.S.C. § 1983, and the federal securities laws.

PROCEDURAL HISTORY

On August 8, 2025, plaintiff filed the initial complaint, an application to proceed in forma pauperis, and a motion for a temporary restraining order. The court screened the complaint before service, granted the in forma pauperis application, denied the temporary restraining order, dismissed the complaint with leave to amend, and directed that the case would be closed if plaintiff did not file a curative amended complaint.

DISPOSITION

dismissed

CASES CITED

- Simon v. Hartford Life, Inc., 546 F.3d 661, 664 (9th Cir. 2008)
- DePonceau v. Pataki, 315 F. Supp. 2d 338, 341-42 (W.D.N.Y. 2004)
- Adam v. Saenger, 303 U.S. 59, 67-68 (1938)
- Herrejon v. Ocwen Loan Servicing, LLC, 980 F.2d 1186, 1201-02 (E.D. Cal. 2013)
- West v. Atkins, 487 U.S. 42, 48 (1988)
- Ketchum v. Alameda County, 811 F.2d 1243, 1245 (9th Cir. 1987)
- Heineke v. Santa Clara University, 965 F.3d 1009, 1013 (9th Cir. 2020)
- Winter v. Natural Resources Defense Council, 555 U.S. 7, 20 (2008)
- Jones v. H.S.B.C. (USA), 844 F. Supp. 2d 1099, 1099 (S.D. Cal. 2012)

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7 BRANDON DANIELS, Case No. 25-cv-06720-SI 8 Plaintiff, ORDER GRANTING APPLICATION 9 v. TO PROCEED IFP, DENYING MOTION FOR TRO, AND SCREENING 10 VERIZON WIRELESS, COMPLAINT PURSUANT TO 28 U.S.C. § 1915 11 Defendant. Re: Dkt. Nos. 5, 8 12 13 14 On August 8, 2025, plaintiff “Daniels, Brandon-Q, agent for BRANDON DANIELS” filed 15 the initial complaint in this action, a motion for a temporary restraining order

(“TRO”), and an 16 application to proceed in forma pauperis (“IFP”), or without prepaying the Court filing fee.

Plaintiff 17 sues defendants Verizon Wireless (Cellco Partnership d/b/a Verizon Wireless) and Verizon 18 Executive Relations. The complaint alleges that in April and July 2025 plaintiff “transmitted a 19 lawful tender of payment and remittance coupon to Defendant VERIZON WIRELESS in 20 satisfaction of the alleged past-due account balance” but that defendant failed to process or accept 21 the payment and disconnected plaintiff’s service on or about July 27, 2025.

Dkt. No. 1 at 10.1 22 The Court GRANTS the application to proceed IFP but will not order service of process at 23 this time. The statute which authorizes courts to allow lawsuits to proceed without prepayment of 24 the filing fees also requires the Court to “dismiss the case at any time if the court determines that..

25. the action or appeal (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be 26 granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” 28 27 1 U.S.C. § 1915(e)(2)(B). 2 The Court concludes that the complaint fails to state a claim for several reasons.

First, it is 3 unclear who exactly is the plaintiff. “[T]he living man Daniels, Brandon-Q, by Special and 4 Restricted Appearance” brings suit “in the private capacity as Authorized Agent for the legal 5 fiction/entity/trust commonly referred to as BRANDON DANIELS (hereinafter ‘the Principal’) 6....” Dkt. No. 1 at 2. It is unclear whether Daniels, Brandon-Q (the agent) and BRANDON 7 DANIELS (the principal) are the same person.

If they are not, then Daniels, Brandon-Q may only 8 appear on behalf of BRANDON DANIELS if the former is an attorney actively licensed and in good 9 standing with the California State Bar and admitted to practice in the Northern District of California. 10 See Simon v. Hartford Life, Inc., 546 F.3d 661, 664 (9th Cir. 2008) (“It is well established that the 11 privilege to represent oneself pro se provided by [28 U.S.C.] § 1654 is personal to the litigant and 12 does not extend to other parties or entities.”) (citation omitted); see also Civ.

L.R. 11-1; 13 https://cand.uscourts.gov/attorneys/admission-to-practice/. This is so even if the latter has executed 14 a power of attorney. See DePonceau v. Pataki, 315 F. Supp. 2d 338, 341-42 (W.D.N.Y. 2004) 15 (citations omitted). 16 Second, the papers repeatedly indicate that plaintiff does not consent to this Court’s 17 jurisdiction, even though plaintiff is the one who chose to file suit here in federal court.

See Dkt. 18 No. 1 at 2-6. The papers state that plaintiff reserves, among other things, “[t]he right to challenge 19 jurisdiction at any time.” Id. at 6. When a plaintiff files suit in federal court, he necessarily consents 20 to that Court’s jurisdiction. “Filing the complaint constitutes consent to jurisdiction ‘for all purposes 21 for which justice to the defendant requires his presence.’” Rutter Group Prac.

Guide Fed. Civ. Pro. 22 Before Trial Ch. 3-D § 3:65 (quoting Adam v. Saenger, 303 U.S. 59, 67-68 (1938)). 23 Additionally, at least some of the claims that plaintiff brings are legally defective.2 24 Plaintiff’s second claim is brought under 15 U.S.C. § 1692(e) & (f). Subsection (f) does not exist, 25 and subsection (e) is a statement of the purpose of the statute.

The statute, the Fair Debt Collection 26 27 2 The Court gives the following illustrations to show some of the ways in which the 1 Practices Act, “makes it unlawful for debt collectors to use abusive tactics while collecting debts 2 for others.” Herrejon v. Ocwen Loan Servicing, LLC, 980 F.2d 1186, 1201 (E.D. Cal. 2013) (citation 3 omitted).

The complaint here fails to allege that defendants are “debt collectors” collecting debts 4 for others within the meaning of the statute. See id. at 1201-02. 5 Plaintiff’s sixth claim is brought under 42 U.S.C. § 1983.

To state a claim under § 1983, a 6 plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of 7 the United States was violated and (2) that the alleged violation was committed by a person acting 8 under the color of state law. West v. Atkins, 487 U.S. 42, 48 (1988); Ketchum v. Alameda Cnty., 9 811 F.2d 1243, 1245 (9th Cir.

1987). It does not appear that the defendants here are state actors for 10 purposes of § 1983. A private entity generally does not act under color of state law. See, e.g., 11 Heineke v. Santa Clara Univ., 965 F.3d 1009, 1013 (9th Cir. 2020) (private university was not a 12 state actor even though it received federal and state funds, the receipt of the funds was conditioned 13 on compliance with federal and state anti-discrimination laws and it could lose government funds 14 for failure to comply with the law).

15 Plaintiff’s seventh claim is brought under 15 U.S.C. § 78j(b), which governs the purchase or 16 sale of securities, as defined by 15 U.S.C. § 78c(a)(10). Nothing in the allegations of the complaint 17 pertains to the purchase or sale of securities. 18 Because the complaint fails to state a claim for the reasons stated above, the Court 19 DISMISSES the complaint.

20 For the same reasons that the Court finds the complaint fails to state a claim, the Court 21 DENIES plaintiff’s motion for a temporary restraining order. In order to obtain a temporary 22 restraining order or a preliminary injunction, plaintiff “must establish that he is likely to succeed on 23 the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the 24 balance of equities tips in his favor, and that an injunction is in the public interest.” Winter v. Nat.

25 Res. Def. Council, 555 U.S. 7, 20 (2008) (citations omitted); see also Jones v. H.S.B.C. (USA), 844 26 F. Supp. 2d 1099, 1099 (S.D. Cal. 2012) (standard for granting a temporary restraining order is 27 similar to standard for granting a preliminary injunction). Based upon the record before this Court, 1 The Court will allow plaintiff an opportunity to amend the complaint to try to correct the 2 || problems described above.

Any amended complaint must be filed by October 14, 2025. If 3 || plaintiff amends the complaint, then it means that plaintiff consents to this Court’s jurisdiction, 4 || including the Court’s ability to rule on the merits of the case and issue a final judgment. If plaintiff 5 || files an amended complaint, the Court will determine whether plaintiff has stated a claim, and if so, 6 || the Court will direct the U.S. Marshal to serve the amended complaint on defendants.

If plaintiff 7 does not file an amended complaint that fixes the problems described above, the Court will close 8 || this case. 9 The Court also advises plaintiff that free legal assistance, but not representation, is available 10 || at the Northern District’s Legal Help Center (415-782-8982), and at https://cand.uscourts.gov/pro- 11 se-litigants/. 13 CONCLUSION 14 The Court GRANTS plaintiffs application to proceed in forma pauperis (Dkt.

No. 8). The 15 Court DENIES plaintiff's motion for a temporary restraining order (Dkt. No. 5). The Court a 16 || DISMISSES the complaint, with leave to amend. Plaintiff's amended complaint is due by October 17 14, 2005. 18 19 IT IS SO ORDERED. 20 Dated: September 23, 2025 Site WU tee 21 SUSAN ILLSTON 22 United States District Judge 23 24 25 26 27 28