

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
FLORIDA

Griffith v. Toscano

Griffith · No. 25-23865-CIV-BLOOM/D’ANGELO · Decided January 29, 2026

SUMMARY

This Report and Recommendation addresses Defendant Patricia Toscano’s motion to dismiss in a diversity action brought by Michael Griffith concerning an alleged oral agreement to divide proceeds from the sale of Florida real property. The court recommends dismissal without prejudice for lack of personal jurisdiction, concluding that the complaint does not establish a basis for jurisdiction under Florida’s long-arm statute. The document also discusses service of process in Ireland and the sufficiency of the conversion claim.

CASE DETAILS

COURT	United States District Court for the Southern District of Florida
WRITING FOR THE COURT	Ellen F. D’Angelo
JURISDICTION	United States District Court for the Southern District of Florida
DECIDED	January 29, 2026
DOCKET	25-23865-CIV-BLOOM/D’ANGELO
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved to dismiss the removed diversity action for lack of personal jurisdiction, insufficient service of process, and failure to state a conversion claim. The magistrate judge issued a Report and Recommendation recommending dismissal without prejudice for lack of personal jurisdiction.
STANDARD OF REVIEW	On a Rule 12(b)(2) motion without an evidentiary hearing, the plaintiff must establish a prima facie case of personal jurisdiction; uncontroverted complaint allegations are accepted as true, and conflicts between the complaint and defendant's affidavits are construed in the plaintiff's favor. For Rule 12(b)(6), the complaint must contain sufficient factual matter to state a plausible claim for relief.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

personal jurisdiction

service of process

motions to dismiss

conversion

breach of contract

PRACTICE AREAS

civil procedure

personal jurisdiction

service of process

contracts

conversion

QUESTIONS PRESENTED

1. Whether the complaint alleged sufficient facts to establish specific personal jurisdiction over Defendant under Florida's long-arm statute.
2. Whether exercising personal jurisdiction over Defendant would satisfy the Due Process Clause.
3. Whether Plaintiff established valid service of process in Ireland under Federal Rule of Civil Procedure 4(f) and the Hague Convention.
4. Whether Plaintiff stated a Florida conversion claim based on Defendant's alleged failure to pay money owed under a contract.
5. Whether Plaintiff sought leave to amend the complaint.

HOLDINGS

1. The complaint failed to allege sufficient material facts supporting specific personal jurisdiction under any asserted provision of Florida's long-arm statute. Conclusory assertions that the contract was breached and the tort occurred in Miami-Dade County were insufficient.
2. The exercise of personal jurisdiction would not satisfy due process because Defendant lacked sufficient purposeful contacts with Florida relating to Plaintiff's claims.
3. Plaintiff failed to establish valid service of process under Federal Rule of Civil Procedure 4(f), the Hague Convention, and applicable Irish requirements.
4. The conversion count failed to state a claim because it sought recovery of money allegedly owed under a contract without alleging that the money was specific and identifiable or that Defendant had an independent duty to preserve or deliver it.

KEY QUOTATIONS

"This argument borders on frivolous and extends well beyond drawing reasonable inferences in Plaintiff's favor to simply inventing facts that are not pled in the Complaint." (at 13)

"Accordingly, Plaintiff's claim for conversion is deficient as a matter of law." (at 24)

FACTUAL BACKGROUND

Plaintiff, a New York resident, alleged that he and Defendant, an Irish citizen and resident, entered into an oral agreement under which Plaintiff would assist in selling Defendant's Coral Gables property in exchange for half

of the post-tax sale proceeds. Plaintiff alleged that Defendant sold the property, paid him \$2 million, and retained at least \$1.25 million allegedly owed under the agreement. Defendant submitted evidence that she owned the property for only eleven days, never resided there, did not conduct business in Florida, and had limited Florida contacts. Plaintiff also attempted service in Ireland, but the evidence indicated that the process server may have served Defendant's daughter rather than Defendant.

PROCEDURAL HISTORY

Plaintiff filed claims for breach of contract and conversion in the Circuit Court of the Eleventh Judicial Circuit for Miami-Dade County. Defendant removed the action to the Southern District of Florida based on diversity jurisdiction. Defendant moved to dismiss, and after briefing and a hearing, the magistrate judge recommended granting the motion and dismissing the case without prejudice for lack of personal jurisdiction. The recommendation remained subject to review by the district judge upon objections.

DISPOSITION

other

CASES CITED

- Republic of Panama v. BCCI Holdings (Luxembourg) S.A., 119 F.3d 935, 940 (11th Cir. 1997)
- Madara v. Hall, 916 F.2d 1510, 1514 (11th Cir. 1990)
- Cable/Home Commc'n Corp. v. Network Prods., Inc., 902 F.2d 829, 855 (11th Cir. 1990)
- Carmouche v. Tamborlee Mgmt., Inc., 789 F.3d 1201, 1203-04 (11th Cir. 2015)
- United Techs. Corp. v. Mazer, 556 F.3d 1260, 1274, 1277 (11th Cir. 2009)
- Abramson v. Walt Disney Co., 132 F. App'x 273, 275 (11th Cir. 2005)
- Louis Vuitton Malletier, S.A. v. Mosseri, 736 F.3d 1339, 1350, 1355 (11th Cir. 2013)
- Future Tech. Today, Inc. v. OSF Healthcare Sys., 218 F.3d 1247, 1249 (11th Cir. 2000)
- Horizon Aggressive Growth, L.P. v. Rothstein-Kass, P.A., 421 F.3d 1162, 1167 (11th Cir. 2005)
- Stone v. Shafran, 641 F. Supp. 3d 1344, 1358 (S.D. Fla. 2022)
- RMS Titanic, Inc. v. Kingsmen Creatives, Ltd., 579 F. App'x 779, 785 (11th Cir. 2014)
- Cole v. Young, 785 F. Supp. 3d 1231, 1261 (N.D. Ga. 2025)
- Oviedo v. Ramirez, No. 21-CIV-23750, 2022 WL 1641865, at *6 (S.D. Fla. May 24, 2022)
- Wiggins v. Tigent, Inc., 147 So. 3d 76, 87 (Fla. Dist. Ct. App. 2014)
- Ferenchak v. Zormati, 572 F. Supp. 3d 1284, 1293 (S.D. Fla. 2021)
- Brennan v. Roman Catholic Diocese of Syracuse New York, Inc., 322 F. App'x 852, 855 (11th Cir. 2009)
- Osborn v. Univ. Soc., Inc., 378 So. 2d 873, 874 (Fla. Dist. Ct. App. 1979)
- Worth Grp., Inc. v. Morales, No. 23-10315, 2023 WL 9018410, at *2 (11th Cir. Dec. 29, 2023)
- World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 297 (1980)
- Burger King Corp. v. Rudzewicz, Burger King Corp. v. Rudzewicz, 471 U.S. 462, 474 (1985)
- Del Valle v. Trivago GMBH, 56 F.4th 1265, 1274 (11th Cir. 2023)

- McKally v. Perez, 87 F. Supp. 3d 1310, 1317 (S.D. Fla. 2015)
- Frayman v. Douglas Elliman Realty, LLC, 515 F. Supp. 3d 1262, 1285 (S.D. Fla. 2021)
- Tambourine Comercio Internacional SA v. Solowsky, 312 F. App'x 263, 272 (11th Cir. 2009)
- Gasparini v. Pordomingo, 972 So. 2d 1053, 1055-56 (Fla. 3d DCA 2008)
- Chabad Chayil, Inc. v. Sch. Bd. of Miami-Dade Cnty., Fla., 48 F.4th 1222, 1236 (11th Cir. 2022)

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