

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Mark Anthony Mall v. Adrienne Marie Waibel, et al.

Mall · No. CV-25-04693-PHX-JJT · Decided January 5, 2026

SUMMARY

The United States District Court for the District of Arizona dismissed pro se Plaintiff Mark Anthony Mall’s Second Amended Complaint without leave to amend. The court held that Plaintiff failed to adequately allege that the defendants acted under color of state law for purposes of 42 U.S.C. § 1983 and that his quiet-title and declaratory-judgment claims did not independently establish federal-question jurisdiction.

CASE DETAILS

COURT	United States District Court for the District of Arizona
WRITING FOR THE COURT	John J. Tuchi
JURISDICTION	United States District Court for the District of Arizona
DECIDED	January 5, 2026
DOCKET	CV-25-04693-PHX-JJT
DISPOSITION	dismissed
PROCEDURAL POSTURE	The court screened Plaintiff's pro se Second Amended Complaint under 28 U.S.C. § 1915(e)(2) and dismissed it for failure to state a federal claim and failure to establish federal-question subject-matter jurisdiction.
STANDARD OF REVIEW	The court screened the in forma pauperis complaint under 28 U.S.C. § 1915(e)(2), applying the Rule 12(b)(6) standard and independently considering subject-matter jurisdiction. A pro se complaint was construed liberally, but liberal construction could not supply essential elements not pleaded.
PRECEDENTIAL VALUE	unknown
PARTIES	Mark Anthony Mall v. Adrienne Marie Waibel, et al.

TOPICS

- section 1983
- subject matter jurisdiction
- motions to dismiss
- quiet title
- civil procedure

PRACTICE AREAS

civil procedure

civil rights

real estate

QUESTIONS PRESENTED

1. Whether the Second Amended Complaint adequately alleged that Defendants were state actors or acted under color of state law for purposes of 42 U.S.C. § 1983.
2. Whether Plaintiff's quiet-title and declaratory-judgment claims created an independent federal cause of action or conferred federal-question subject-matter jurisdiction.
3. Whether the Second Amended Complaint should be dismissed without leave to amend after Plaintiff had already received two opportunities to amend.

HOLDINGS

1. The Second Amended Complaint failed to state a § 1983 claim because it did not sufficiently allege that Defendants were state actors or acted under color of state law.
2. The quiet-title and declaratory-judgment claims did not create an independent cause of action under federal law or confer subject-matter jurisdiction on the district court.
3. Dismissal without leave to amend was proper because Plaintiff had twice been given an opportunity to amend and could not state a federal claim for which relief could be granted.

KEY QUOTATIONS

“Plaintiff fails to sufficiently state that the Defendants were either a state actor or acted under the color of state law, his Section 1983 claim fails.” (Opinion at 2)

“Plaintiff has not, and cannot, state a federal claim against Defendants for which relief can be granted in this Court, and therefore cannot establish federal question subject-matter jurisdiction.” (Opinion at 3)

FACTUAL BACKGROUND

Mall alleged that Wells Fargo and Tiffany & Bosco foreclosed his property, that EZ Homes subsequently acquired title, and that EZ Homes later transferred title to the defendants. He alleged that the defendants' property interests resulted from those prior actions and that the defendants relied on actions by the Maricopa County Recorder's Office, the Superior Court, and the Sheriff's Office to obtain and maintain possession. The court found no facts showing that the defendants participated in foreclosure proceedings, recorded the allegedly void documents, or exercised power possessed by virtue of state law.

PROCEDURAL HISTORY

Mall filed a Second Amended Complaint asserting claims under 42 U.S.C. § 1983, quiet title, and declaratory judgment arising from the foreclosure and subsequent transfers of his property. The court had previously provided two opportunities to amend, including opportunities to establish subject-matter jurisdiction and state a claim. The court dismissed the Second Amended Complaint without leave to amend and directed the Clerk to dismiss the matter.

DISPOSITION

dismissed

CASES CITED

- Lopez v. Smith, 203 F.3d 1122, 1127-29, 1130 (9th Cir. 2000)
- Balistreri v. Pacifica Police Department, 901 F.2d 696, 699 (9th Cir. 1990)
- Watison v. Carter, 668 F.3d 1108, 1112 (9th Cir. 2012)
- Bruns v. National Credit Union Administration, 122 F.3d 1251, 1257 (9th Cir. 1997)
- Henderson ex rel. Henderson v. Shinseki, 562 U.S. 428, 434 (2011)
- Flagg Bros., Inc. v. Brooks, 436 U.S. 149, 155 (1978)
- Polk County v. Dodson, 454 U.S. 312, 317-18 (1981)
- Rawson v. Recovery Innovations, Inc., 975 F.3d 742, 751 (9th Cir. 2020)

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