

NOTE: This order is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**FAREED SEPEHRY-FARD,**  
*Plaintiff-Appellant*

v.

**UNITED STATES,**  
*Defendant-Appellee*

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2020-1100

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Appeal from the United States Court of Federal Claims  
in No. 1:18-cv-01118-VJW, Senior Judge Victor J. Wolski.

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**ON MOTION**

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PER CURIAM.

**O R D E R**

The United States moves for summary affirmance of the United States Court of Federal Claims' judgment dismissing Fareed Sepehry-Fard's complaint. Mr. Sepehry-Fard responds (ECF No. 20) and moves for various relief (ECF No. 18) and for judicial notice (ECF No. 21).

## BACKGROUND

In February 2018, Mr. Sepehry-Fard filed a *qui tam* complaint under the False Claims Act in the United States District Court for the Northern District of California against Greenpoint Mortgage Funding, Inc., Nationstar Mortgage LLC, Capital One, NA, and various other private parties. Among other things, Mr. Sepehry-Fard alleged the defendants had forged his signature on promissory notes and security instruments relating to his property.

After that complaint was dismissed, Mr. Sepehry-Fard brought this suit in the Court of Federal Claims. His complaint asserted that the district court's dismissal of his prior *qui tam* complaint was "void as a matter of law." Compl. ¶28. He also reasserted his allegations from his prior complaint that the same private defendants had created false mortgages encumbering his property which resulted in foreclosure. Mr. Sepehry-Fard further argued that the United States "did nothing to stop" that "criminal conduct" and "grand theft." Compl. ¶31.

Mr. Sepehry-Fard's complaint specifically claimed that the government and its "Co Parties Agent(s) Principle(s)" committed "false search and seizure," violated his "civil rights," committed "trespass, detriment of character/name defamed, emotional, physical and mental anguish, Obstruction of Justice," violated "Due Process," "Breach of contract (Constitution), Violations of Constitution of United States 1st 4th 5th, [and] Violations of Constitution of State of California." Compl. ¶2. He also asserted violations of 18 U.S.C. § 1346, "US Code §§§ 471, 472 and 473," and various California criminal codes. Compl. ¶¶1, 88–89. Mr. Sepehry-Fard's complaint also appears to assert that he was not obligated to pay local property taxes based on "the Treaty of Guadalupe Hidalgo" and that as well as other treaties exempted his property from foreclosure, liens, and levies. Compl. ¶¶75, 80, 84.

His complaint requested “[d]eclaratory and injunctive relief and an order” for the government and its “Agent(s) Co Parties Principle(s) to perform their official duties”; “quite [sic] the title to Plaintiff’s private property and damages caused to Plaintiff by Defendant’s failure to act when on repeated notice by Plaintiff”; \$25,000,000 as compensatory and punitive damages; to declare that “the subject promissory and mortgage be deemed null and void”; and that “all documents recorded on or against title to the subject property” in California be declared void. Compl. ¶97.

The government moved to dismiss the complaint for lack of subject-matter jurisdiction, which the Court of Federal Claims granted in August 2019. The court concluded that “[b]ecause plaintiff appears to make no specific allegation concerning anything done by any federal actor” except for perhaps tortious activity, “this case does not come within our court’s jurisdiction.” *Sepehry-Fard v. United States*, No. 18-1118C, 2019 WL 4137497 at \*5 (Fed. Cl. Aug. 30, 2019). Mr. Sepehry-Fard’s appeal was docketed in October 2019. In December 2019, the government moved to summarily affirm the judgment of the Court of Federal Claims. After a series of motions for extensions of time, Mr. Sepehry-Fard filed his response to the government’s motion on May 26, 2020.

#### DISCUSSION

We agree that “no substantial question regarding the outcome of the appeal exists” here. *Joshua v. United States*, 17 F.3d 378, 380 (Fed. Cir. 1994) (citation omitted). The Tucker Act, 28 U.S.C. § 1491, limits the Court of Federal Claims’ jurisdiction to claims that are “reasonably amenable to the reading that it mandates a right of recovery in damages” against the government. *United States v. White Mountain Apache Tribe*, 537 U.S. 465, 473 (2003). Here, the Court of Federal Claims was clearly correct that the complaint did not raise such a claim.

The Court of Federal Claims was correct in recognizing that the First and Fourth Amendments lack money-mandating provisions, thereby precluding jurisdiction. See *United States v. Connolly*, 716 F.2d 882, 887 (Fed. Cir. 1983) (citations omitted) (explaining that “the [F]irst [A]mendment, standing alone, cannot be so interpreted to command the payment of money”); *Brown v. United States*, 105 F.3d 621, 623 (Fed. Cir. 1997) (citations omitted) (“Because monetary damages are not available for a Fourth Amendment violation, the Court of Federal Claims does not have jurisdiction over such a violation.”).

It was also clearly correct that Mr. Sepehry-Fard did not allege the taking of property by the federal government or that the federal government improperly extracted local property taxes such that he could raise a cognizable claim under the Fifth Amendment. See *Aerolineas Argentinas v. United States*, 77 F.3d 1564, 1573 (Fed. Cir. 1996) (citations omitted) (recognizing due process claim only when there has been an illegal exaction by government officials and the exaction is based on a statutory power).

The Court of Federal Claims was also clearly correct that Mr. Sepehry-Fard did not assert a contract that could give rise to jurisdiction under the Tucker Act. The only contract that Mr. Sepehry-Fard appears to allege that the government breached was the Constitution. But the Constitution is not an express or implied contract between him and the federal government. See *Taylor v. United States*, 113 Fed. Cl. 171, 173 (2013) (rejecting the argument that the Constitution was a contract with plaintiff).

The Court of Federal Claims also properly held that Mr. Sepehry-Fard’s claim that the United States failed to protect him and other claims of negligence, defamation, and trespass sound in tort, and are thus outside the Tucker Act grant of jurisdiction. 28 U.S.C. §1491(a)(1). That is particularly true of any claim against a bank or other private party or state official alleged to commit wrongdoing,

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because the Tucker Act only authorizes suit against the United States. See *United States v. Sherwood*, 312 U.S. 584, 588 (1941) (citation omitted).

The Court of Federal Claims was also clearly correct that it lacked jurisdiction to the extent that Mr. Sepehry-Fard was asserting a civil rights violation under 42 U.S.C. §§ 1981, 1982, or 1983, as those provisions cannot fairly be read to impose a money-mandating obligation on the United States enforceable under the Tucker Act. See *May v. United States*, 534 F. App'x 930, 933–34 (Fed. Cir. 2013) (collecting cases of this and other courts holding that such claims were outside the scope of the Tucker Act).

Finally, the Court of Federal Claims was clearly correct that it could not review an alleged violation of a state or federal criminal law, see *Joshua*, 17 F.3d at 379, and could not entertain a collateral attack on the district court's dismissal of his prior *qui tam* action, *Shinnecock Indian Nation v. United States*, 782 F.3d 1345, 1352 (Fed. Cir. 2015) (citations omitted) (“Binding precedent establishes that the Court of Federal Claims has no jurisdiction to review the merits of a decision rendered by a federal district court.”).

Accordingly,

IT IS ORDERED THAT:

(1) The United States' motion to summarily affirm (ECF No. 8) is granted. The judgment of the United States Court of Federal Claims is summarily affirmed.

(2) Mr. Sepehry-Fard's motions (ECF Nos. 18 and 21) are denied.

(3) Each side shall bear its own costs.

FOR THE COURT

July 23, 2020

Date

/s/ Peter R. Marksteiner

Peter R. Marksteiner  
Clerk of Court

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SEPEHRY-FARD v. US

s28

In the United States Court of Federal Claims

No. 18-1118C

(Filed August 30, 2019)

NOT FOR PUBLICATION

\* \* \* \* \*

FAREED SEPEHRY-FARD,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

\* \* \* \* \*

MEMORANDUM OPINION AND ORDER

WOLSKI, Judge.

This case was filed *pro se* on July 26, 2018, by Fareed Sepehry-Fard.<sup>1</sup> Plaintiff makes several allegations to the effect that banks had created false mortgages encumbering his property which resulted in foreclosures, and that when he told the federal government about it, the federal government failed to protect him. See Complaint (Compl.), ECF No. 1; Verified Opp'n to Def.'s Mot. to Dismiss at 5 (Pl.'s Resp.), ECF No. 10. He has asserted claims against the federal government in relation to those foreclosures. See Compl. ¶¶ 24–95. The government has moved to dismiss this case under Rule 12(b)(1) of the Rules of the United States Court of Federal Claims (RCFC). See Mot. to Dismiss at 1–5 (Def.'s Mot.), ECF No. 8. Because Mr. Sepehry-Fard has failed to state a claim for relief that falls within this court's jurisdiction, the government's motion to dismiss this case must be GRANTED.

<sup>1</sup> Plaintiff objects to being called a "*pro se*" litigant, see Pl.'s Resp. at 3, as he apparently fails to recognize that the term simply refers to a party representing himself without the assistance of legal counsel.

## I. BACKGROUND

On July 26, 2018, plaintiff Fareed Sepehry-Fard filed his complaint in our court. The complaint contains a number of confusing claims concerning disputed property in California. See Compl. ¶¶ 24–95. Mister Sepehry-Fard complains that the United States has failed to stop a number of banks and named individuals from creating false mortgages encumbering his property, see *id.* ¶ 31, claiming the latter were “known international money launderers . . . involved in sex trafficking, human trafficking, prostitution, drug cartel and other illegally obtained monies . . . using Plaintiff’s (and other people’s homes) as a cover up to launder those illegally obtained monies.” *Id.* ¶ 24. The entities and individuals plaintiff claims are thieves and “money launderers” include the U.S. Bank National Association, Greenpoint Mortgage Trust, Nationstar Mortgage LLC, Greenpoint Mortgage Funding, Inc., Capital One, N.A., Severson & Werson APC, Joseph W. Guzzetta, Bernard J. Kornberg, Adam N. Barasch, Mark Joseph Kenney, William A. Aspinwall, Financial Guaranty Insurance Company, and Clear Recon Corp. *Id.*<sup>2</sup>

Plaintiff claims that as a result, he “has become disabled due to Defendant’s failure to perform its official duties severely damaging plaintiff emotionally, economically and physically.” Compl. ¶ 31. Mister Sepehry-Fard also claims that the United States “in fact aided and abetted aforementioned companies to continue to steal from Plaintiff.” *Id.* Plaintiff states that he filed a *qui tam* complaint in a California federal district court in an attempt to sue these “known international money launderers,” but his complaint was dismissed “since Plaintiff is not an attorney.” *Id.* ¶¶ 24–27 & n.5. In complaining about this dismissal, Mr. Sepehry-Fard demands that “attorneys prove the legislative authority” that allows them to practice law. *Id.* ¶ 27. Further, Mr. Sepehry-Fard challenges the decision of the district judge as “void as a matter of law.” *Id.* ¶ 28.

Mister Sepehry-Fard also accuses the previously mentioned entities and individuals of violations of the California Penal Code and federal law. Specifically, Mr. Sepehry-Fard claims that the entities/individuals “have consistently fabricated false, forged, robo signed and robo notarized instruments . . . in clear violation of, inter alia, Cal. Penal Code 115 (a) and (b) as well as US Code §§ 471, 472 and 473.” Compl. ¶¶ 88–89. The complaint also accuses the Financial Guaranty Insurance Company (FGIC) of “knowingly or through negligence participat[ing] in these unlawful acts and insur[ing the] aforementioned entities.” *Id.* ¶ 92.

Seemingly unrelated to his claims of criminal conduct, Mr. Sepehry-Fard also alleges that the Treaty of Guadalupe Hidalgo exempts his property from “property taxation, foreclosure, eminent domain, liens & levy.” Compl. ¶ 80. Although this section of the complaint is particularly incoherent, plaintiff seems to claim that his property is legally exempt from taxation because it can be traced back to the Treaty

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<sup>2</sup> Plaintiff also implicates “Does 1 through 50.” Compl. ¶ 26 n.5.



of Guadalupe Hidalgo and “[n]o local property tax law can supersede International Treaty Law.” *Id.* ¶ 84. Plaintiff claims that attempting to foreclose on his property would amount to a “criminal violation of Treaty between our country and REPUBLIC OF MEXICO, and THAT action would also be a declaration of war on Sovereign REPUBLIC OF MEXICO.” *Id.* ¶ 68 (emphasis in original). Any attempt to tax plaintiff’s property would, he asserts, be “a felony under Federal Law on false accusation of tax debt at 26 U.S.C. § 7214(a)(1) and/or (2), and/or (3) . . . and/or (9).” *Id.* ¶ 82.

Additionally, Mr. Sepehry-Fard alleges Constitutional violations of the First, Fourth, and Fifth Amendments along with unspecified violations of due process and violations of the Constitution of the State of California. *Id.* ¶¶ 2, 3 n.2.<sup>3</sup> Plaintiff also alleges that the Constitution is a contract and that violations of the Constitution also amount to a breach of contract between the United States and himself. *Id.* ¶ 2.

Plaintiff requests both injunctive relief and damages from the United States. Compl. ¶ 97. Mister Sepehry-Fard requests that this court quiet title regarding his property and award him \$25,000,000 in both compensatory and punitive damages for the government’s “failure to perform its official duties.” *Id.* Plaintiff also requests “a trial by jury be held for all issues so triable.” *Id.*<sup>4</sup>

The government has moved for the dismissal of plaintiff’s complaint pursuant to RCFC 12(b)(1) for lack of subject-matter jurisdiction. Def.’s Mot. at 1, 3–4 (Def.’s Mot.), ECF No. 8. Defendant first argues that our court is unable to review district court decisions involving Mr. Sepehry-Fard because “such decisions are not reviewable in this Court.” *Id.* at 4. The government also contends that Mr. Sepehry-Fard’s criminal claims, tort claims, and constitutional claims are similarly unreviewable for lack of jurisdiction. *Id.* Defendant adds that that claims of violations of state law fall outside our jurisdiction “because state statutes do not create a right to money damages against the United States.” *Id.* (citing *Griffin v. United States*, 96 Fed. Cl. 1, 8 (2010)).

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<sup>3</sup> He explains the basis of his First Amendment claim as being that he “can’t be prosecuted for legally asserting . . . my 1<sup>st</sup> Amendment Right to Free Speech.” Compl. ¶ 84.

<sup>4</sup> Neither a trial by jury nor punitive damages are obtainable in our court. See *Arunga v. United States*, 465 F. App’x 966, 967, n.2 (Fed. Cir. 2012) (“By filing in the Court of Federal Claims, one waives the right to a jury trial.” (citing *James v. Caldera*, 159 F.3d. 573, 589-90 (Fed. Cir. 1998)); *Greene v. United States*, 65 Fed. Cl. 375, 379 (2005) (“It is well-established that [the Court of Federal Claims] lacks authority to grant punitive damages.” (citing 28 U.S.C. § 2674)).

Plaintiff submitted a brief opposing the government's motion. See Pl.'s Resp. In it, Mr. Sepehry-Fard argues the government produced "no affidavits nor any declaration from competent fact witness(es) . . . to rebut Plaintiff Verified Complaint Under Oath." *Id.* at 1. In response to the government's argument that this court cannot review decisions of other courts, Mr. Sepehry-Fard states that he "does not nor ever did request to review the prior other court's order(s) in this court, whatever they may be." *Id.* at 4.

Mister Sepehry-Fard also recharacterizes his claims, estimating the amount of property taxes he had paid over more than 21 years and contending he has been subject to an illegal exaction based on those taxes. *Id.* at 8. Plaintiff argues that this alleged illegal exaction violates the Fifth Amendment's Due Process Clause and is within our court's jurisdiction because it involves a tax refund. *Id.* at 11-12. Plaintiff also reiterates his theory that the Constitution is a contract and that any Constitutional violations would also breach this contract between him and the government. *Id.* Mister Sepehry-Fard explains that his claim is based on a "non-judicial judgement [sic]" against defendants based on violations of the Truth in Lending Act of 1968, 15 U.S.C. § 1635 (2010) (TILA). *Id.* at 16.<sup>5</sup> Contemporaneous with his response, plaintiff also filed a motion in which he claims defendant has "defaulted" and must pay \$25,000,000. See Verified Mot. at 4 (Pl.'s Mot.), ECF No. 11.

In its reply, the government argues that its motion to dismiss does not depend on any evidentiary issues and that our court does not possess jurisdiction to entertain Mr. Sepehry-Fard's motion. Def.'s Reply in Supp. of Its Mot. to Dismiss (Def.'s Reply) at 1-2, ECF No. 12. Plaintiff in turn replied, restating his previous arguments and accusing attorneys for the government of "ganging up" on him. Pl.'s Reply at 2, ECF No. 14.

## II. DISCUSSION

### A. Standard of Review

Under RCFC 12(b)(1), claims brought before this court must be dismissed when it is shown that the court lacks jurisdiction over their subject matter. When considering a motion to dismiss a case for lack of subject-matter jurisdiction, courts will accept as true all factual allegations the non-movant made and draw all reasonable inferences in the light most favorable to that party. See *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974); *Pixton v. B&B Plastics, Inc.*, 291 F.3d 1324, 1326 (Fed. Cir. 2002) (stating that on a motion to dismiss for lack of subject-matter jurisdiction this court views "the alleged facts in the complaint as true, and if the facts reveal any reasonable basis upon which the non-movant may prevail,

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<sup>5</sup> Although Mr. Sepehry-Fard cites TILA, he does not specify how the government allegedly violated the act or explain what this "non-judicial judgement [sic]" is.

dismissal is inappropriate”); *CBY Design Builders v. United States*, 105 Fed. Cl. 303, 325 (2012).

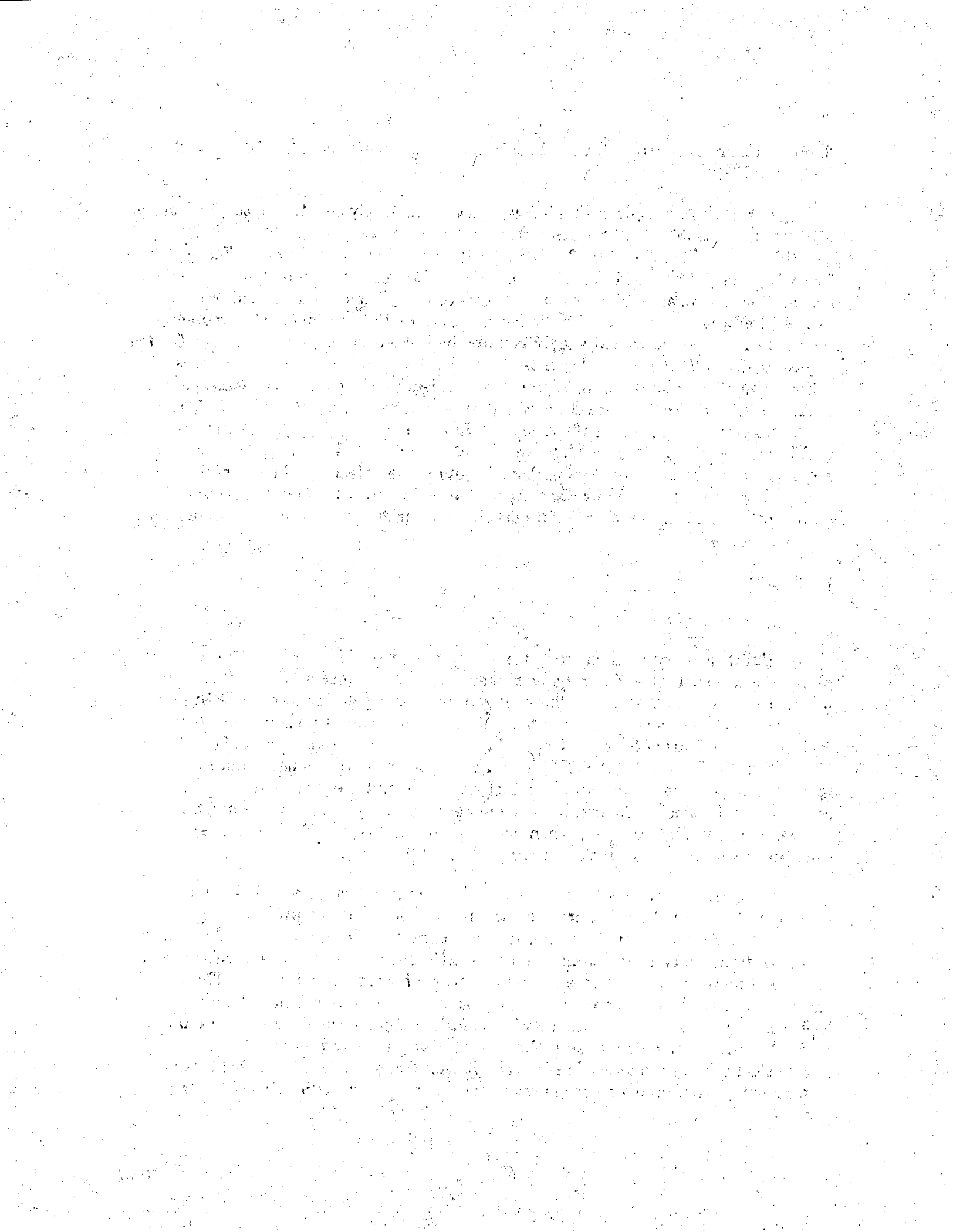
Though a *pro se* plaintiff’s filings are to be liberally construed, see *Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Schirripa v. United States*, No. 1:16-01073, 2018 WL 4049126, at \*1 (Fed. Cir. Aug. 24, 2018) (relying on *Erickson*); *Ottah v. Fiat Chrysler*, 884 F.3d 1135, 1141 (Fed. Cir. 2018), this lenient standard will not spare claims from dismissal which fall outside this court’s jurisdiction for failing to establish a breach of contract by the federal government or to identify a money-mandating law which was allegedly violated by the federal government. See *United States v. Mitchell*, 463 U.S. 206, 216–17 (1983). A plaintiff’s *pro se* status does not relieve him of the obligation to demonstrate jurisdiction by a preponderance of the evidence. See *McNutt v. Gen. Motors Acceptance Corp. of Ind.*, 298 U.S. 178, 189 (1936) (explaining the plaintiff’s responsibility for showing that the claim falls within the court’s jurisdiction); *Henke v. United States*, 60 F.3d 795, 799 (Fed. Cir. 1995) (noting that a plaintiff’s status does not excuse defects in the complaint); *Reynolds v. Army & Air Force Exch. Serv.*, 846 F.2d 746, 748 (Fed. Cir. 1988) (stating that the burden of proof for establishing jurisdiction is by a preponderance of the evidence).

## B. Analysis

### 1. Tort Claims

Plaintiff seems to allege tortious conduct in several instances. To the extent plaintiff alleges that the federal government failed to protect him from false mortgages, such allegations of “the negligent or careless performance of a duty by the government sounds in tort and fall outside of this court’s jurisdiction.” *Lion Raisins, Inc. v. United States*, 54 Fed. Cl. 427, 434 (2002); see also *Krigel v. United States*, 229 Ct. Cl. 73, 81 (1981) (“A claim based on the careless performance of duty by a government employee sounds in tort and is beyond the jurisdiction of this court.”). As the Tucker Act explicitly excludes tort claims from our jurisdiction, and the negligent performance of government duties is a tort, the Tucker Act denies our court jurisdiction over such claims. 28 U.S.C. § 1491(a)(1).

Plaintiff also alleges that private entities engaged in tortious behavior, also raising matters which our Court lacks the jurisdiction to entertain. See, e.g., Compl. ¶¶ 2, 31, 61, 89, 92 (complaining that various defendants engaged in fraud and intentional deceit, negligence, trespass, defamation, the negligent infliction of emotional distress, and the intentional infliction of emotional distress). These claims are related to plaintiff’s allegations that “the aforementioned companies . . . have sold Plaintiff’s private property” in violation of his property rights. Compl. ¶ 25. As previously noted, even if the actions of these defendants could be attributed to the federal government, the Tucker Act specifically withholds from this court jurisdiction over any claims sounding in tort. 28 U.S.C. § 1491(a)(1);



*Khalil v. United States*, 133 Fed. Cl. 390, 392 (2017). Indeed, the Federal Tort Claims Act vests only the United States district courts with jurisdiction over tort claims against the United States—including those for loss of property. 28 U.S.C. § 1346(b)(1); *U.S. Marine, Inc. v. United States*, 722 F.3d 1360, 1366 (Fed. Cir. 2013). See also *Cottrell v. United States*, 42 Fed. Cl. 144, 149 (1998) (“Even where the claim is framed under non-tort law, the court lacks jurisdiction if the essence of the claim lies in tort.”). Thus, to the extent that Mr. Sepehry-Fard argues that the government or private persons or entities committed any of the torts he alleges, this court lacks jurisdiction to hear such claims.

## 2. Claims Against Defendants Other Than the United States

Much of the complaint concerns the actions of a number of private individuals and companies. See, e.g., Compl. ¶¶ 16, 24–26, 29, 39, 41–42. These include the U.S. Bank National Association, Greenpoint Mortgage Trust, Nationstar Mortgage LLC, Greenpoint Mortgage Funding, Inc., Capital One, N.A., Severson & Werson APC, Joseph W. Guzzetta, Bernard J. Kornberg, Adam N. Barasch, Mark Joseph Kenney, William A. Aspinwall, Financial Guaranty Insurance Company, and Clear Recon Corp. *Id.* ¶ 24.

As is common in cases brought by *pro se* plaintiffs, Mr. Sepehry-Fard misunderstands the purpose of this court’s jurisdiction. The Tucker Act grants this court jurisdiction over cases against the *United States government* seeking damages for certain claims founded upon the Constitution, statutes, or regulations of the United States, as well as damages for breaches of contracts with the United States. 28 U.S.C. § 1491(a)(1).<sup>6</sup> And, as explained above, even where the United States is named as a defendant, Congress has specifically withheld from our subject-matter jurisdiction cases seeking damages for torts, as well as claims based on crimes allegedly committed against the plaintiff. *Id.*; *Stanwyck v. United States*, 127 Fed. Cl. 308, 312–14 (2016).

Insofar as Mr. Sepehry-Fard’s complaint is directed at conduct by private parties, this court lacks authority to hear the matter. *Vlahakis v. United States*, 215 Ct. Cl. 1018, 1018–19 (1978); see also *Ambase Corp. v. United States*, 61 Fed. Cl. 794, 796 (2004) (explaining that this court lacks jurisdiction over private parties). Also, to the extent plaintiff’s complaint may be construed as alleging conduct by California state officers, this court also lacks jurisdiction over such claims. In general, “[t]his court does not have jurisdiction over any claims alleged against states, localities, state and local government entities, or state and local government

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<sup>6</sup> The Constitution cannot be considered either an express or implied-in-fact contract between plaintiff and the government. See *Taylor v. United States*, 113 Fed. Cl. 171, 173 (2013); *Griffith v. United States*, No. 14-793C, 2015 WL 430285, at \*2–3 (Fed. Cl. Jan. 30, 2015).

officials and employees; jurisdiction only extends to suits against the United States itself.” *Anderson v. United States*, 117 Fed. Cl. 330, 331 (2014); *see also Treviño v. United States*, 557 F. App’x 995, 998 (Fed. Cir. 2014) (explaining that this court cannot hear claims against “states, localities, state and local government officials, state courts, state prisons, or state employees”). Plaintiff’s allegations against parties other than the United States thus fall outside our jurisdiction.<sup>7</sup> And no action by a federal agency, nor any failure by a federal agency to perform a required, money-mandating duty, is alleged.

Because plaintiff appears to make no specific allegation concerning anything done by any federal actor, this case does not come within our court’s jurisdiction.<sup>8</sup> To the extent plaintiff discusses the United States government, he argues that it failed “to adhere to specific requirements” it is bound to perform “pursuant to the signed contract (i.e. the Constitution),” Pl.’s Resp. at 5, and that the government somehow aided and abetted the theft of his property, Compl. ¶ 31, all without describing specific government actions. *See also* Pl.’s Resp. at 6. But even if plaintiff’s allegations were construed to implicate the United States government, he has failed to allege a matter within our jurisdiction, as explained below.

### 3. Criminal Claims

Plaintiff raises allegations of criminal conduct which include the commission and aiding and abetting of grand theft. *See* Compl. ¶¶ 2, 30–31, 48; *see also id.* ¶¶ 24 (alleging “sex trafficking, human trafficking, prostitution, drug cartel and other illegally obtained monies” and “funding terrorist groups including but not limited to funding ISIS”), 25 (complaining of credit default swaps, tax write-offs,

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<sup>7</sup> In limited situations, the federal government may be liable for the actions of state agents, but this is not such a case. *See Rose Acre Farms, Inc. v. United States*, 373 F.3d 1177, 1196 (Fed. Cir. 2004) (noting that attribution of state acts to the federal government “is proper . . . only if the state officials were acting as agents of the federal government or pursuant to federal authority.”) (citing *B & G Enterprises, Ltd., v. United States*, 220 F.3d 1318, 1323–24 (Fed. Cir. 2000); *see also, e.g., Hassan v. United States*, 41 Fed. Cl. 149, 150 (1998).

<sup>8</sup> The one exception is the allegation concerning the order of a federal district court, *see* Compl. ¶¶ 26–28, 89, which plaintiff contends “is void as a matter of law since there is nothing in [the] False Claims Act (‘FCA’) that corroborates and substantiates the judge’s erroneous and void decision,” *id.* ¶ 28; *see generally Sepehry-Fard v. U.S. Bank Nat’l Ass’n*, No. 18-cv-03885, 2018 WL 5099287 (N.D. Cal. Aug. 7, 2018). But Mr. Sepehry-Fard disclaims any intention of seeking review of that order, *see* Pl.’s Resp. at 4. In any event, our court is unable to review the correctness of decisions by other courts. *See Vereda, Ltda. v. United States*, 271 F.3d 1367, 1375 (Fed. Cir. 2001) (citing *Joshua v. United States*, 17 F.3d 378, 380 (Fed. Cir. 1994)); *Petro-Hunt, L.L.C. v. United States*, 126 Fed. Cl. 367, 380 (2016).

and “Cross Collarization [sic] of Plaintiff’s alleged loan based on a non[-]existing alleged loan on Plaintiff’s private property”), 30 (alleging literal theft), 38 (alleging defendants “are international money launderers and [P]onzi schemers, which are also known to illegally obtain and launder drug cartel, human trafficking, minor prostitution, sex trafficking and other illegally obtained monies, dressed falsely as alleged mortgage servicers, trustee of a closed trust that had shut down operations more than 10 years ago and whatever else one wants to call these sham entities”), 40. These allegations presumably relate to the foreclosure actions on his properties. See Compl. ¶¶ 39, 41–42, 53–54. Plaintiff also alleges identity theft. Compl. ¶¶ 44–45, 47. The Tucker Act, however, does not give our court jurisdiction over criminal actions. See 28 U.S.C. § 1491(a)(1); *Khalil*, 133 Fed. Cl. at 392 (“This court, however, ‘has no jurisdiction to adjudicate any claims whatsoever under the federal criminal code.’”) (quoting *Joshua*, 17 F.3d at 379). While it is theoretically possible that Congress could place a money-mandating statute in the criminal code, *Stanwyck*, 127 Fed. Cl. at 314, the Court is unaware of any such provision, and plaintiff fails to cite any. Thus, insofar as Mr. Sepehry-Fard alleges criminal conduct, this court lacks jurisdiction over those elements of his complaint.

#### 4. Constitutional Claims

Without any specifics, plaintiff argues that defendants engaged in the following: “Violation of Due Process, Breach of contract (Constitution), [and] Violations of Constitution of United States 1st 4th 5th [Amendments].” Compl. ¶¶ 2, 3 n.2. Our court, however, has not been empowered to opine on every matter involving an alleged violation of a constitutional provision. Under the Tucker Act, 28 U.S.C. § 1491(a)(1), our jurisdiction is restricted to claims for money damages, and requires “the identification of a money-mandating law which was allegedly violated by the federal government.” *Stanwyck*, 127 Fed. Cl. at 312 (citing *Mitchell*, 463 U.S. at 216–17). For jurisdiction to rest on the transgression of a constitutional provision, that provision must mandate that money be paid to particular individuals if violated. See *Smith v. United States*, 709 F.3d 1114, 1116 (Fed. Cir. 2013) (“To be cognizable under the Tucker Act, the claim must be for money damages against the United States, and the substantive law must be money-mandating.”); see also *Eastport S.S. Corp. v. United States*, 178 Ct. Cl. 599, 605 (1967) (holding that our predecessor did not have jurisdiction over “every claim involving or invoking the Constitution”).

The First and Fourth Amendments lack money-mandating provisions, thereby precluding this court’s jurisdiction. See *United States v. Connolly*, 716 F.2d 882, 887 (Fed. Cir. 1983) (explaining that “the [F]irst [A]mendment, standing alone, cannot be so interpreted to command the payment of money”); *Brown v. United States*, 105 F.3d 621, 623 (Fed. Cir. 1997) (“Because monetary damages are not available for a Fourth Amendment violation, the Court of Federal Claims does not have jurisdiction over such a violation.”). Concerning the Fifth Amendment, while violations of the Just Compensation Clause are within our jurisdiction, plaintiff

does not allege the taking of his property by federal government. And, as a general matter, violations of the Due Process Clause are not within our jurisdiction. See *LeBlanc v. United States*, 50 F.3d 1025, 1028 (Fed. Cir. 1995). The exception is when the alleged due process violation has resulted in the exaction of money from a plaintiff. See *Aerolineas Argentinas v. United States*, 77 F.3d 1564, 1573 (Fed. Cir. 1996).

To be sure, Mr. Sepehry-Fard alleges that he is owed a refund of taxes improperly imposed, Compl. ¶¶ 80–84, and explains that these payments were illegal exactions in violation of his due process rights, see Pl.’s Resp. at 6–8, 11–14. But plaintiff does not identify any *federal* taxes that were improperly exacted, and instead references local property taxes which he alleges violated the Treaty of Guadalupe Hidalgo. See Compl. ¶ 84; Pl.’s Resp. at 8. State and local taxes are not taxes paid to the United States and thus cannot be recovered in our court. See *Gharb v. United States*, No. 12-911C, 2013 WL 4828589, at \*6 (Fed. Cl. Sept. 9, 2013) (explaining dual sovereignty and that states are not “mere appendages of the Federal Government” (quoting *Fed. Mar. Comm’n v. So. Carolina State Ports Auth.*, 535 U.S. 743, 751 (2002))). Accordingly, plaintiff has failed to allege an illegal exaction falling within our court’s jurisdiction.

#### 5. Miscellaneous Claims

Plaintiff also asserts that he has suffered from the deprivation of his civil rights, presumably in violation of 42 U.S.C. § 1983. See Compl. ¶¶ 2, 11–12. But Section 1983 and its related statutes do not confer jurisdiction on this court, even when claims are stated against the United States. See *Khalil*, 133 Fed. Cl. at 392 (noting that “[i]t is well established, however, that § 1983 does not confer jurisdiction on the Court of Federal Claims over claims against the United States”) (quoting *Johnson v. United States*, No. 97-5107, 1998 WL 39162, at \*2 (Fed. Cir. Feb. 3, 1998)). Indeed, these provisions do not even apply to the federal government. See *Hardin v. United States*, No. 15-585C, 2015 WL 6437379, at \*4 & n.5 (Fed. Cl. Oct. 22, 2015) (noting that district courts have exclusive jurisdiction over claims brought under 42 U.S.C. §§ 1981, 1983, 1985, and 1986, and that such provisions “apply to actions of state and local, *not federal*, officials”) (emphasis in original). Therefore, even if plaintiff somehow attributed civil rights violations to misconduct by the United States, this court would still lack jurisdiction over those claims.

Plaintiff makes several references to sources of law which cannot be the basis for our court’s jurisdiction. He repeatedly alleges violations of California law. Compl. ¶¶ 1–2, 22, 30, 48; Pl.’s Resp. at 6. But state law violations cannot come within our power, as “state statutes do not create a right to money damages against the United States.” *Griffin v. United States*, 96 Fed. Cl. 1, 8 (2010). Mister Sepehry-Fard also seems to be under the impression that the 1848 Treaty of Guadalupe Hidalgo protects his “land patent ownership” rights in this court.




Compl. ¶¶ 6, 66–81, 83–84. But as this court has indicated in a similar context, plaintiff “fails to explain why the court has jurisdiction, when Congress established a separate administrative scheme for claims brought under the Treaty, and when such claims were required to be brought over 160 years ago.” *Daniels v. United States*, No. 17-1598C, 2018 WL 1664476, at \*8 (Fed. Cl. Apr. 6, 2018). Plaintiff also refers to President Trump’s Executive Order dated December 20, 2017, which freezes the assets of identified human rights violators. See Compl. ¶¶ 7, 63 & Ex. X. But far from containing a money-mandating clause, to the contrary this order expressly states (in Section 13) that it “is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States.” Exec. Order No. 13,818, 82 Fed. Reg. 60,839 (Dec. 20, 2017).

In sum, as explained above, the complaint in this case fails to contain any allegations that place its claims within the subject-matter of our court, and dismissal is thus required.<sup>9</sup>

### III. CONCLUSION

Even if everything that Mr. Sepehry-Fard alleges is true, there is nothing that our court can do about it, as Congress has not given us jurisdiction to hear cases like his. Our court is unable to review the decisions of federal district courts, or to entertain claims based on the actions of private persons. Our power extends to cases against the United States government for non-tortious violations of federal laws that require the payment of money damages by the federal government. See 28 U.S.C. § 1491(a)(1). Plaintiff has not alleged anything done by the federal government in violation of any identified, money-mandating federal sources of law that would place his claims within our court’s jurisdiction. For these reasons, the government’s motion to dismiss this case for lack of subject-matter jurisdiction, under RCFC 12(b)(1), is GRANTED. The Clerk shall close the case.

IT IS SO ORDERED.

  
VICTOR J. WOLSKI  
Senior Judge

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<sup>9</sup> The Court notes that another case brought in our court by Mr. Sepehry-Fard, containing many of the same claims as this one, was recently dismissed for lack of subject-matter jurisdiction. See *Sepehry-Fard v. United States*, No. 19-560C, 2019 WL 2070746, at \*1–3 (Fed. Cl. May 9, 2019).

NOTE: This order is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**FAREED SEPEHRY-FARD,**  
*Plaintiff-Appellant*

v.

**UNITED STATES,**  
*Defendant-Appellee*

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2020-1100

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Appeal from the United States Court of Federal Claims  
in No. 1:18-cv-01118-VJW, Senior Judge Victor J. Wolski.

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**ON PETITION FOR PANEL REHEARING**

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PER CURIAM.

**O R D E R**

The court construes Fareed Sepehry-Fard's submissions of July 29, 2020 and July 31, 2020 as a petition for rehearing of the court's July 23, 2020 order summarily affirming the judgment of the United States Court of Federal Claims dismissing his complaint for lack of jurisdiction.

Mr. Sepehry-Fard provides no basis for rehearing.

Accordingly,

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SEPEHRY-FARD v. US

IT IS ORDERED THAT:  
The petition is denied.

September 04, 2020  
Date

FOR THE COURT

/s/ Peter R. Marksteiner  
Peter R. Marksteiner  
Clerk of Court

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