

Case #:

THE SUPREME COURT OF THE UNITED STATES

Tamara Rouhi

Original Case Number: 19CV3052

Plaintiff/Appellant

Original Case/Complaint/Exhibits Filed: 10/18/19

V

Kettler et al

Appellate Court Case Number:
20-1791

Defendants/Appellee

A review from the US Court of Appeals for the Fourth Circuit.

Civil Case.

Jury not requested.

APPENDIX VOLUME I: COURT FINDINGS

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

TAMARA ROUHI,

Plaintiff,

v.

Civil Case No.: SAG-19-3052

KETTLER, *et al.*,

Defendants.

* * * * *

ORDER

For the reasons stated in the accompanying Memorandum Opinion, it is this 24th day of June, 2020, ORDERED that Defendant Kettler's Motion to Dismiss, ECF 8, and Defendant Habitat America's Motion to Dismiss, ECF 17, are GRANTED. Plaintiff's claims against both Defendants will be dismissed without prejudice. The Clerk is directed to CLOSE this case.

Date: June 24, 2020

/s/

Stephanie A. Gallagher
United States District Judge

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

CHAMBERS OF
STEPHANIE A. GALLAGHER
UNITED STATES DISTRICT JUDGE

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June 24, 2020

Tamara Rouhi
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LETTER OPINION

RE: *Rouhi v. Kettler, et al.*, 19-3052-SAG

Dear Ms. Rouhi and Counsel:

Plaintiff Tamara Rouhi filed this lawsuit, *pro se*, against Kettler and Habitat America, LLC (“Habitat”), alleging a wide variety of violations relating to the management of her unit in the Timbercroft Townhomes community in Owings Mills, Maryland. ECF 1. Kettler and Habitat have each filed Motions to Dismiss, asserting that this Court lacks subject matter jurisdiction over Rouhi’s claims, and, alternatively, that the Complaint fails to state a claim upon which relief can be granted.¹ ECF 8, 17. I have reviewed those motions, along with the relevant oppositions, supplements, and replies. ECF 10, 19, 20, 21, 24, 28. No hearing is necessary. *See* Loc. R. 105.6 (D. Md. 2018). For the reasons stated herein, both motions to dismiss will be granted for lack of subject matter jurisdiction, and Rouhi’s Complaint will be dismissed without prejudice.

As courts of limited jurisdiction, federal courts “may not exercise jurisdiction absent a statutory basis.” *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 552 (2005). In fact, “[a] court is to presume . . . that a case lies *outside* its limited jurisdiction unless and until jurisdiction has been shown to be proper.” *United States v. Poole*, 531 F.3d 263, 274 (4th Cir. 2008) (citing *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994)).

Rouhi’s Complaint states that jurisdiction is premised on federal question jurisdiction, diversity jurisdiction, and supplemental jurisdiction. ECF 1 at 2. Because Rouhi brought this action *pro se*, this Court affords her pleadings liberal construction. *See Estelle v. Gamble*, 429 U.S. 97, 106 (1976); *see also Loe v. Armistead*, 582 F.2d 1291, 1295 (4th Cir. 1978). Essentially, *pro se* pleadings are held to a less stringent standard than those drafted by attorneys. *Hughes v. Rowe*, 449 U.S. 5, 9–10 (1980) (per curiam). However, even liberal construction does not require district

¹ Regardless, questions of subject matter jurisdiction may be raised *sua sponte* by the court. *Brickwood Contractors, Inc. v. Datanet Engineering, Inc.*, 369 F.3d 385, 390 (4th Cir. 2004).

courts to “conjure up questions never squarely presented.” *Beaudett v. City of Hampton*, 775 F.2d 1274, 1278 (4th Cir. 1985).

The burden rests with Rouhi, as “the party asserting jurisdiction to demonstrate that jurisdiction does, in fact, exist.” *Lovern v. Edwards*, 190 F.3d 648, 654 (4th Cir. 1999). If “a defendant challenges the existence of subject matter jurisdiction in fact, the plaintiff bears the burden of proving the truth of such facts by a preponderance of the evidence.” *United States ex rel. Vuyyuru v. Jadhav*, 555 F.3d 337, 347 (4th Cir. 2009).

Each of Rouhi’s three jurisdictional assertions will be addressed in turn.

A. Federal Question Jurisdiction

Congress has invested the district courts with original jurisdiction over civil actions arising under the Constitution, laws, or treaties of the United States, commonly called “federal question jurisdiction.” *Exxon Mobil Corp.*, 545 U.S. at 552; 28 U.S.C. § 1331. While Rouhi’s Complaint cites to six federal statutes and one Constitutional provision, all of her federal claims are frivolous, because they are expressly precluded by governing law. Because Rouhi has no private right of action as to the federal claims she asserts, her Complaint does not involve a federal controversy within the jurisdiction of this Court.²

Simple reference to federal statutes or constitutional provisions is insufficient to establish federal question jurisdiction, where no colorable claim exists. As the Fourth Circuit explained:

It is equally clear that the federal question, to confer jurisdiction on the federal District Court, must be real and substantial, not colorable or frivolous. The federal question must really appear, not by mere inference or suggestion. *Hanford v. Davies*, 163 U.S. 273, 16 S.Ct. 1051, 41 L.Ed. 157; *Western Union Telegraph Co. v. Ann Arbor R. Co.*, 178 U.S. 239, 20 S.Ct. 867, 44 L.Ed. 1052. And the federal question must be an essential or integral part of the plaintiff’s case. *Tennessee v. Union & Planters’ Bank*, 152 U.S. 454, 14 S.Ct. 654, 38 L.Ed. 511; *Shulthis v.*

² Even if this Court had found a basis to exercise federal question jurisdiction, this Court would grant Defendants’ Motions to Dismiss on the basis of Rule 12(b)(6), for failure to state a claim upon which relief can be granted, as to the federal claims Rouhi asserts without a viable private right of action against non-governmental defendants. The only distinction, if the case were to be adjudicated on that basis instead of on jurisdictional grounds, would be that this Court would have discretion to exercise supplemental jurisdiction over Rouhi’s state law claims, because original jurisdiction would have arguably existed at the time the case was filed. Even under that scenario, the Court would exercise its “wide latitude” to decline to exercise supplemental jurisdiction under 28 U.S.C. § 1337(c), because there are no underlying issues of federal policy and no judicial economy concerns, at this early stage of the proceeding, weighing in favor of federal retention of Rouhi’s state law claims. See *Shanaghan v. Cahill*, 58 F.3d 106, 110 (4th Cir. 1995) (citing *Carnegie-Mellon University v. Cohill*, 484 U.S. 343, 350 n. 7 (1988)).

MacDougal, 225 U.S. 561, 32 S.Ct. 704, 56 L.Ed. 1205. Mere references to the federal Constitution, laws or treaties and mere assertions that a federal question is involved are not sufficient to confer jurisdiction. *Starin v. New York*, 115 U.S. 248, 6 S.Ct. 28, 29 L.Ed. 388; *Farrel v. O'Brien*, 199 U.S. 89, 25 S.Ct. 727, 50 L.Ed. 101; *Lambert Run Coal Co. v. Baltimore & Ohio R. Co.*, 258 U.S. 377, 42 S.Ct. 349, 66 L.Ed. 671. The federal courts have been vigilant to protect their jurisdiction against cases in which the alleged federal question is purely fictitious.

McCartney v. State of West Virginia, 156 F.2d 739, 741 (4th Cir. 1946); *see also Bell v. Hood*, 327 U.S. 678, 682 (1946) (holding that a case is subject to dismissal for lack of subject matter jurisdiction “where the alleged claim under the Constitution or federal statutes clearly appears to be immaterial and made solely for the purpose of obtaining jurisdiction or where such a claim is wholly insubstantial and frivolous.”).

While this Court does not believe that Rouhi incorporated her federal claims solely for the purpose of obtaining federal jurisdiction, each of those claims suffers from a fatal defect. First, Rouhi asserts claims under five provisions of the United States Criminal Code: 18 U.S.C. § 668 (theft of major artwork from a museum); 18 U.S.C. § 641 (embezzlement of public money, property or records); 18 U.S.C. § 1012 (fraud against the Department of Housing and Urban Development); 18 U.S.C. § 1001 (false statement to a government official); and 18 U.S.C. § 1002 (possession of false papers to defraud the United States). As another judge of this Court has cogently explained, a civil plaintiff like Rouhi cannot bring suit under general criminal statutes:

The Supreme Court has made clear that “the fact that a federal statute has been violated and some person harmed does not automatically give rise to a private cause of action in favor of that person.” *Cannon v. Univ. of Chi.*, 441 U.S. 677, 688 (1979). Federal rights of action, like substantive federal law, “must be created by Congress.” *Alexander v. Sandoval*, 532 U.S. 275, 286 (2001) (citing *Touche Ross & Co. v. Redington*, 442 U.S. 560, 578 (1979)). “To create a private right of action,” the Fourth Circuit has explained, Congress must “‘speak[] with a clear voice’ and the statute must ‘unambiguously’ express the intent ‘to create not just a private *right* but also a private *remedy*.’” *Clear Sky Car Wash LLC v. City of Chesapeake*, 743 F.3d 438, 444 (4th Cir. 2014) (quoting *Gonzaga Univ. v. Doe*, 536 U.S. 273, 284 (2002) (emphasis in *Gonzaga*)). Where “Congress is silent or ambiguous, courts may not find a cause of action ‘no matter how desirable that might be as a policy matter.’” *Planned Parenthood S. Atlantic v. Baker*, 941 F.3d 687, 695 (4th Cir. 2019) (quoting *Alexander*, 532 U.S. at 286-87). This holds true for federal criminal statutes. *See Doe v. Broderick*, 255 F.3d 440, 448 (4th Cir. 2000); *Fed. Sav. & Loan Ins. Co. v. Reeves*, 816 F.2d 130, 138 (4th Cir. 1987); *accord Tam Anh Pahn v. Deutsche Bank Nat. Trust Co.*, 583 F. App’x 216, 217 (4th Cir. 2014).

McKenzie-El v. Internal Revenue Service, Civ. No. ELH-19-1956, 2020 WL 902546, at *14 (D. Md. Feb. 24, 2020).

None of the statutes Rouhi cites provides any private remedy for citizens to invoke in a civil suit, as they are “bare criminal statute[s], with absolutely no indication that civil enforcement of any kind [i]s available to anyone.” *Cort v. Ash*, 422 U.S. 66, 80 (1975); *see also, e.g., Phillips v. North Carolina*, Civil No. 5:19-CV-111-D, 2020 WL 2150526 (E.D.N.C. Mar. 24, 2020) (dismissing case for lack of subject matter jurisdiction despite *pro se* plaintiff’s citation to federal criminal statutes as basis for civil claim); *Almond v. Bank of New York Mellon*, Civil No. 1:18-cv-3461-MLB-JKL, 2018 WL 4846002, at *2 (N.D. Ga. July 20, 2018) (finding lack of subject matter jurisdiction because “even if the Complaint could fairly be read as attempting to assert claims under 18 U.S.C. §§ 152 and 1001 against Defendant, those Claims cannot give this Court original jurisdiction because there is no private right of action under either statute.”); *Ali v. Timmons*, Civil No. 04-CV-0164E, 2004 WL 1698445, at *2 (W.D.N.Y. July 26, 2004) (“Initially, plaintiff’s claims for criminal theft and embezzlement must be dismissed because there is no private right of action, either express or implied, under the criminal statute raised by plaintiff, 18 U.S.C. § 641.”); *House v. Hastings*, Civil No. 91 Civ. 3780 (JSM), 1992 WL 44370, at *1 n.1 (S.D.N.Y. Feb. 21, 1992) (“Originally this action was brought under 18 U.S.C. 1001 and 18 U.S.C. 1002, which do not readily provide for a private right of action.”). Accordingly, Rouhi’s citation to various criminal statutes, which do not include private rights of action, does not permit this Court’s exercise of federal question jurisdiction.

Second, similarly, Rouhi invokes 10 U.S.C. § 921-121 (larceny), a provision of the Uniform Code of Military Justice. Like the criminal statutes cited above, 10 U.S.C. § 921-121 does not incorporate a private right of action, and military justice has no application to a dispute between a tenant and her property management company. The only remedy provided in 921-121(b) is that “any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial may direct.” Thus, Rouhi’s civil claim under that military statute is improper and frivolous.

As her final federal claim, Rouhi’s Complaint alleges “violations of rights granted by America (the 4th amendment).” ECF 1 at 2. Because each action alleged in the complaint was taken by a private actor, a Fourth Amendment claim cannot lie. As courts have made clear unequivocally, “It is axiomatic that [t]he Fourth Amendment protects against unreasonable searches and seizures by Government officials and those private individuals acting as instruments or agents of the Government” The Fourth Amendment, however ‘does not provide protection against searches by private individuals acting in a private capacity.’” *United States v. Day*, 591 F.3d 679, 683 (4th Cir. 2010) (quoting *United States v. Jarrett*, 338 F.3d 339, 344 (4th Cir. 2003)). According to Rouhi’s allegations, most of the actions in question were taken by “Timbercroft employees.” *See, e.g.*, ECF 1 at 5 (“Timbercroft employees constantly entered my home with their copy of my house key, usually with no prior notice”). Even under a liberal construction of her Complaint, Rouhi does not allege that any such employees were acting as instruments or agents of the Government, and her constitutional claim, therefore, is also frivolous. In the absence of any real, substantial federal question, this Court lacks federal question jurisdiction over Rouhi’s claims.

B. Diversity Jurisdiction

In the absence of federal question jurisdiction, Rouhi has to demonstrate that this court has diversity jurisdiction to entertain her case. Diversity jurisdiction exists “where the matter in controversy exceed the sum or value of \$75,000, exclusive of interest and costs,” and the litigation is between “citizens of different States.” 28 U.S.C. § 1332(a)(1). Rouhi is a citizen of Maryland, and the Complaint alleges that Kettler is a Virginia company. The operative question, then, is the citizenship of Habitat, for purposes of determining whether complete diversity exists between the plaintiff and the defendants. *See Owen Equip. & Erection Co. v. Kroger*, 437 U.S. 365, 377 (1978) (explaining that § 1332 requires *complete* diversity).

Critically, “For purposes of diversity jurisdiction, the citizenship of a limited liability company . . . is determined by the citizenship of all of its members.” *Cent. W. Va. Energy Co. v. Mountain State Carbon, LLC*, 636 F.3d 101, 103 (4th Cir. 2011). “If one of those members is itself an LLC, then the party’s citizenship must ‘be traced through multiple levels,’ meaning that its citizenship derives from the membership of the parent LLC, as well as its own membership.” *Lay v. Caesars Enterprise Servs., LLC.*, Civil No. CCB-18-96, 2018 WL 1947050, at *2 (Apr. 25, 2018) (quoting *Mut. Assignment & Indemnification Co. v. Lind-Waldock & Co.*, 364 F.3d 858, 861 (7th Cir. 2004)). Following that analysis, a single LLC may be a citizen of more than one state, if it is composed of members who are residents of different states. *See New Day Financial, LLC v. Katz*, Civil No. CCB-15-2245, 2015 WL 5092022, at *3 n. 2 (Aug. 28, 2015) (“But an LLC such as New Day may be a citizen of multiple states.”)

In judging an evidentiary attack on the existence of subject matter jurisdiction, “[a] trial court may consider evidence by affidavit, depositions or live testimony without converting the proceeding to one for summary judgment.” *Adams v. Bain*, 697 F.2d 1213, 1219 (4th Cir. 1982) (citing *Mims v. Kemp*, 516 F.2d 21 (4th Cir. 1975)). Here, Habitat has submitted evidence by way of affidavit that Habitat America, LLC has two members, which are also LLCs: F&B Holding LLC and Osprey Property Group, LLC. ECF 17-3 ¶ 6. F&B Holding LLC’s sole member is a Maryland resident, Catherine J. Murphy. *Id.* Meanwhile, Osprey Property Group LLC’s sole member, David R. Lewis, is a resident of Nevada. *Id.* Accordingly, Habitat is both a Maryland resident and a Nevada resident. Because Rouhi is also a Maryland resident, the parties are not *completely* diverse, and thus, diversity jurisdiction does not exist in this case. *See Exxon Mobil*, 545 U.S. at 553-54 (“The Court, nonetheless, has adhered to the complete diversity rule in light of the purpose of the diversity requirement, which is to provide a federal forum for important disputes where state courts might favor, or be perceived as favoring, home-state litigants. The presence of parties from the same State on both sides of a case dispels this concern, eliminating a principal reason for conferring § 1332 jurisdiction over any of the claims in the action.”). This Court therefore lacks original jurisdiction over any of Rouhi’s claims.

C. Supplemental Jurisdiction

28 U.S.C. § 1337(a) provides that “in any civil action of which the district courts have original jurisdiction . . . the district courts shall have supplemental jurisdiction over all other claims

that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy.” This provision is recognized as “a broad grant of supplemental jurisdiction over other claims within the same case or controversy, as long as the action is one in which the district courts would have original jurisdiction.” *Exxon Mobil*, 545 U.S. at 558. As the Supreme Court explained in *Exxon Mobil*, “In order for a federal court to invoke supplemental jurisdiction . . . it must first have original jurisdiction over at least one claim in the action. Incomplete diversity destroys original jurisdiction with respect to all claims, so there is nothing to which supplemental jurisdiction can adhere.” *Id.* at 554. Here, as described above, this Court does not have original jurisdiction over any of the claims in this case. Thus, supplemental jurisdiction does not provide a mechanism for this Court to adjudicate Rouhi’s claims.

D. Kettler’s Rule 12(b)(6) Motion to Dismiss

Although the Court lacks jurisdiction to reach the merits of this case, it is worth noting that Rouhi’s claims against Kettler also appear to be barred by Maryland’s three-year statute of limitations. *See* Md. Code Ann., Cts. & Jud. Proc. § 5-101. As Rouhi concedes, Kettler’s term as property manager of Timbercroft Townhomes ended on May 31, 2016, more than three years before Rouhi filed her Complaint — on October 18, 2019. Accordingly, to the extent Rouhi intends to attempt to refile her claims in any court, she should ensure that she is also able to address the apparent limitations bar to any claims against Kettler.

For the reasons set forth herein, both motions to dismiss, ECF 8 and ECF 17, will be granted. Rouhi’s claims against both Defendants will be dismissed without prejudice, and this case will be closed.

A separate order follows.

Sincerely yours,

/s/
Stephanie A. Gallagher
United States District Judge

FILED: December 21, 2020

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-1791
(1:19-cv-03052-SAG)

TAMARA ROUHI

Plaintiff - Appellant

v.

KETTLER; HABITAT AMERICA LLC

Defendants - Appellees

JUDGMENT

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

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UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 20-1791

TAMARA ROUHI,

Plaintiff - Appellant,

v.

KETTLER; HABITAT AMERICA LLC,

Defendants - Appellees.

Appeal from the United States District Court for the District of Maryland, at Baltimore.
Stephanie A. Gallagher, District Judge. (1:19-cv-03052-SAG)

Submitted: December 17, 2020

Decided: December 21, 2020

Before THACKER, HARRIS, and QUATTLEBAUM, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Tamara Rouhi, Appellant Pro Se. Charles Lester Simmons, Jr., WHITEFORD, TAYLOR & PRESTON, LLP, Baltimore, Maryland; Mark Anthony Kozlowski, LAW OFFICES OF JONATHAN P. STEBENNE, London, Kentucky; Louis C. Long, Charles Benjamin Peoples, THOMAS, THOMAS & HAFFER, LLP, Washington, D.C., for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Tamara Rouhi appeals the district court's order dismissing her complaint for lack of subject matter jurisdiction. We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *Rouhi v. Kettler*, No. 1:19-cv-03052-SAG (D. Md. June 24, 2020). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

FILED: January 12, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-1791
(1:19-cv-03052-SAG)

TAMARA ROUHI

Plaintiff - Appellant

v.

KETTLER; HABITAT AMERICA LLC

Defendants - Appellees

M A N D A T E

The judgment of this court, entered December 21, 2020, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure.

/s/Patricia S. Connor, Clerk

Case #:

THE SUPREME COURT OF THE UNITED STATES

Tamara Rouhi

Original Case Number: 19CV3052

Plaintiff/Appellant

Original Case/Complaint/Exhibits Filed: 10/18/19

V

Kettler et al

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Defendants/Appellee

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Jury not requested.

APPENDIX VOLUME II: AUTHORITIES

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Article III, Section 2, US Constitution

“The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;--to all cases affecting ambassadors, other public ministers and consuls;--to all cases of admiralty and maritime jurisdiction;--to controversies to which the United States shall be a party;--to controversies between two or more states;--between a state and citizens of another state;--between citizens of different states;--between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.”

- Article III, Section 2, US Constitution, Cornell Law

Breach of Contract

“(a) Whether a party is in breach of contract is determined by the agreement or, in the absence of agreement, this title. A breach occurs if a party without legal excuse fails to perform an obligation in a timely manner, repudiates a contract, or exceeds a contractual use term, or otherwise is not in compliance with an obligation placed on it by this title or the agreement. A breach, whether or not material, entitles the aggrieved party to its remedies. Whether a breach of a contractual use term is an infringement or a misappropriation is determined by applicable informational property rights law.

(b) A breach of contract is material if:

- (1) The contract so provides;
- (2) The breach is a substantial failure to perform a term that is an essential element of the agreement; or
- (3) The circumstances, including the language of the agreement, the reasonable expectations of the parties, the standards and practices of the business, trade, or industry, and the character of the breach, indicate that:

(A) The breach caused or is likely to cause substantial harm to the aggrieved party; or

(B) The breach substantially deprived or is likely substantially to deprive the aggrieved party of a significant benefit it reasonably expected under the contract.

(c) The cumulative effect of nonmaterial breaches may be material."

- MD § 22-701, Justia

Certiorari

"Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1)

By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;..."

- 28 U.S. Code § 1254, Cornell Law

The Civil Rights Act of 1964, Title II

"All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination on the ground of race, color, religion, or national origin."

-42 U.S.C. §2000a (a), Justice.gov

Deprivation of rights under color of law

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in

violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death."

-18 U.S. Code § 242, Cornell Law

Diversity Jurisdiction

"(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between—

(1) citizens of different States;

(2) citizens of a State and citizens or subjects of a foreign state, except that the district courts shall not have original jurisdiction under this subsection of an action between citizens of a State and citizens or subjects of a foreign state who are lawfully admitted for permanent residence in the United States and are domiciled in the same State;

(3) citizens of different States and in which citizens or subjects of a foreign state are additional parties; and

(4) a foreign state, defined in section 1603(a) of this title, as plaintiff and citizens of a State or of different States.

(b) Except when express provision therefor is otherwise made in a statute of the United States, where the plaintiff who files the case originally in the Federal courts is finally adjudged to be entitled to recover less than the sum or value of \$75,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interest and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.

(c) For the purposes of this section and section 1441 of this title—

(1) a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business, except that in any direct action against the insurer of a policy or contract of liability insurance, whether incorporated or unincorporated, to which action the insured is not joined as a party-defendant, such insurer shall be deemed a citizen of—

(A) every State and foreign state of which the insured is a citizen;

(B) every State and foreign state by which the insurer has been incorporated; and

(C) the State or foreign state where the insurer has its principal place of business ...”

- 28 U.S. Code § 1332, Cornell Law

Embezzlement

“Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or

Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted—

Shall be fined under this title or imprisoned not more than ten years, or both; but if the value of such property in the aggregate, combining amounts from all the counts for which the defendant is convicted in a single case, does not exceed the sum of \$1,000, he shall be fined under this title or imprisoned not more than one year, or both.

The word “value” means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.”

- 18 U.S. Code § 641, Cornell Law

“Whoever, with intent to defraud, makes any false entry in any book of the Department of Housing and Urban Development or makes any false report or statement to or for such Department; or

Whoever receives any compensation, rebate, or reward, with intent to defraud such Department or with intent unlawfully to defeat its purposes; or

Whoever induces or influences such Department to purchase or acquire any property or to enter into any contract and willfully fails to disclose any interest which he has in such property or in the property to which such contract relates, or any special benefit which he expects to receive as a result of such contract—

Shall be fined under this title or imprisoned not more than one year, or both.”

- 18 U.S. Code § 1012, Cornell Law

Exploitation of the poor and disabled

“...(1) A person may not knowingly and willfully obtain by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is a vulnerable adult with intent to deprive the vulnerable adult of the vulnerable adult's property.

(2) A person may not knowingly and willfully obtain by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is at least 68 years old, with intent to deprive the individual of the individual's property...”

- MD § 8-801, Justia

Federal Question

“The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”

-28 U.S. Code § 1331, Cornell Law

Final decisions of district courts

“The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court. The jurisdiction of the United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections 1292(c) and (d) and 1295 of this title.”

-28 U.S. Code § 1291, Cornell Law

First Amendment

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

- First Amendment, congress.gov

Fourth Amendment

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

- Fourth Amendment, congress.gov

Fraud

"(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

(1)

falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2)

makes any materially false, fictitious, or fraudulent statement or representation; or

(3)

makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.

(b)

Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to—

(1)

administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or

(2)

any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.”

-18 U.S. Code § 1001, Cornell Law

“Whoever, knowingly and with intent to defraud the United States, or any agency thereof, possesses any false, altered, forged, or counterfeited writing or document for the purpose of enabling another to obtain from the United States, or from any agency, officer or agent thereof, any sum of money, shall be fined under this title or imprisoned not more than five years, or both.”

-18 U.S. Code § 1002, Cornell Law

"fraud" includes:

"(1) the willful making of a false statement or a false representation"

- MD § 8-501 (1), Justia

Harassment

“(a) A person may not follow another in or about a public place or maliciously engage in a course of conduct that alarms or seriously annoys the other:

(1) with the intent to harass, alarm, or annoy the other;

(2) after receiving a reasonable warning or request to stop by or on behalf of the other; and

(3) without a legal purpose.

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(b) This section does not apply to a peaceable activity intended to express a political view or provide information to others..."

-MD § 3-803, Justia

Interference with exercise of rights

"A person may not coerce, intimidate, threaten, interfere with, or retaliate against any person:

- (1) in the exercise or enjoyment of any right granted or protected by this subtitle;
- (2) because a person has exercised or enjoyed any right granted or protected by this subtitle; or
- (3) because a person has aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by this subtitle."

- MD § 20-708, Justia

Larceny

"(a) Any person subject to this chapter who wrongfully takes, obtains, or withholds, by any means, from the possession of the owner or of any other person any money, personal property, or article of value of any kind—

(1)

with intent permanently to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any person other than the owner, steals that property and is guilty of larceny; or

(2)

with intent temporarily to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any person other than the owner, is guilty of wrongful appropriation.

(b)

Any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial may direct."

- 10 U.S. Code § 921, Cornell Law

Malicious Trespass

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“ (a) A person may not enter or cross over private property or board the boat or other marine vessel of another, after having been notified by the owner or the owner's agent not to do so, unless entering or crossing under a good faith claim of right or ownership.

(b) A person may not remain on private property including the boat or other marine vessel of another, after having been notified by the owner or the owner's agent not to do so.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$500 or both.

(d) This section prohibits only wanton entry on private property.

(e) This section also applies to property that is used as a housing project and operated by a housing authority or State public body, as those terms are defined in Article 44A of the Code, if an authorized agent of the housing authority or State public body gives the required notice specified in subsection (a) or (b) of this section.”

-MD § 6-403, Justia

Obstruction of Justice

“...Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress—

Shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both.”

-18 U.S. § 1505, Cornell Law

Smoking Restriction Exceptions

“This subtitle does not apply to:

(1) Private homes, residences, including residences used as a business or place of employment, unless being used by a person who is licensed or registered under Title 5, Subtitle 5 of the Family Law Article to provide

child care, and private vehicles, unless being used for the public transportation of children, or as part of health care or child care transportation;

(2) A hotel or motel room rented to one or more guests as long as the total percent of hotel or motel rooms being so used does not exceed 25%;

(3) A retail tobacco business that is a sole proprietorship, limited liability company, corporation, partnership, or other enterprise, in which:

(i) The primary activity is the retail sale of tobacco products and accessories; and

(ii) The sale of other products is incidental;

(4) Any facility of a manufacturer, importer, wholesaler, or distributor of tobacco products or of any tobacco leaf dealer or processor in which employees of the manufacturer, importer, wholesaler, distributor, or processor work or congregate; or

(5) A research or educational laboratory for the purpose of conducting scientific research into the health effects of tobacco smoke."

-MD Health-Gen Code § 24-505, Justia

Stalking

"(a) "Stalking" defined.- In this section, "stalking" means a malicious course of conduct that includes approaching or pursuing another where the person intends to place or knows or reasonably should have known the conduct would place another in reasonable fear:

(1) (i) of serious bodily injury;

(ii) of an assault in any degree;

(iii) of rape or sexual offense as defined by §§ 3-303 through 3-308 of this article or attempted rape or sexual offense in any degree;

(iv) of false imprisonment; or

(v) of death; or

(2) that a third person likely will suffer any of the acts listed in item (1) of this subsection.

(b) Prohibited.- The provisions of this section do not apply to conduct that is:

- (1) performed to ensure compliance with a court order;
- (2) performed to carry out a specific lawful commercial purpose; or
- (3) authorized, required, or protected by local, State, or federal law.

(c) Applicability.- A person may not engage in stalking. ”

-MD § 3-802, Justia

Summary Judgement

“(a) Motion for Summary Judgment or Partial Summary Judgment. A party may move for summary judgment, identifying each claim or defense — or the part of each claim or defense — on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion...”

-Civil Rule 56, Cornell Law

Supplemental Jurisdiction

“(a) Except as provided in subsections (b) and (c) or as expressly provided otherwise by Federal statute, in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. Such supplemental jurisdiction shall include claims that involve the joinder or intervention of additional parties.

(b) In any civil action of which the district courts have original jurisdiction founded solely on section 1332 of this title, the district courts shall not have supplemental jurisdiction under subsection (a) over claims by plaintiffs against persons made parties under Rule 14, 19, 20, or 24 of the Federal Rules of Civil Procedure, or over claims by persons proposed to be joined as plaintiffs under Rule 19 of such rules, or seeking to intervene as plaintiffs under Rule 24 of such rules, when exercising supplemental jurisdiction over such claims would be inconsistent with the jurisdictional requirements of section 1332.

(c) The district courts may decline to exercise supplemental jurisdiction over a claim under subsection (a) if—

steals or obtains by fraud from the care, custody, or control of a museum any object of cultural heritage; or

(2)

knowing that an object of cultural heritage has been stolen or obtained by fraud, if in fact the object was stolen or obtained from the care, custody, or control of a museum (whether or not that fact is known to the person), receives, conceals, exhibits, or disposes of the object,

shall be fined under this title, imprisoned not more than 10 years, or both."

-18 U.S. § 668, Cornell Law

Thirteenth Amendment

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

- Thirteenth Amendment, Congress.gov