

No. 23-6284

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

David S. Pontier, Pro se. PETITIONER
vs.

Supreme Court, U.S.
FILED
DEC 11 2023
OFFICE OF THE CLERK

The State Bar of California: California Corporation
State of California :California Corporation
GEICO Insurance, Maryland Corporation:
Farmers Inc, California Corporation
JP Morgan Chase Bank, N.A. a Delaware Corporation
Joseph Dang, an individual;
PHIA GROUP, LLC;
Glenn C. Nusbaum, an individual;
Paul E. Kim, MD Inc., A California corporation;
Dr. Kevin Yoo, an individual.
Does 1-10, Individual RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

David S. Pontier, Pro Se

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QUESTION(S) PRESENTED

Question I

United States Supreme Court bears responsibility to exercise authority over United States District Court Judges and provide an outline of criteria under which United States District Court Judges may transfer and reassign cases to themselves across districts courts and states under First to File Rule where transfer and reassignment involve parties associations of District Judge prior employment, association membership creating a conflict of interest which would not exist had the District Judge not transferred, reassigned case to himself.

9th Circuit Court of Appeals ruling that transfer of case across district and state is not fundamentally unfair to Petitioner conflicts with established United States Supreme Court precedent and United States Court of Appeals precedent that all judges state and federal should recuse themselves from cases involving conflict of interest. Allowing District Judges to transfer cases cross district and state involving prior employer, association membership reassigning case to themselves violates fundamental fairness and establishes conflicting precedent.

Question II

Federal Interpleader filed under 28 USC 1332, 1335 based solely upon procedurally barred medical debt from 2012-2014 after expiration of California (4) year State Statute of Limitations August 13, 2019 violated the FDCPA as claims are procedurally barred claimants residence cannot be relied upon as basis for Federal Subject Matter Jurisdiction and Venue.

Loop hole in 28 USC 1332, 1335 does not require claim dates be specified at time of Interpleader filing placing undue burden on United States District Court time and resources to claims procedurally barred by FDCPA, U.S. Citizens defendants having to protect their property against litigation after litigation of procedurally time barred claims United States Congress enacted the FDCPA to protect against.

Guidance of the United States Supreme Court is necessary to establish basic set of standards to be met necessary to establish Federal Subject Matter Jurisdiction and venue to file Interpleader under 28 USC 1332, 1335.

Requiring Interpleader Filer provide a claim date for each claim and certify that the claim has been made in good faith and not filed in violation of the FDCPA after the applicable Statute of Limitations has expired would close the loophole in 28 USC 1332, 1335 (which allows for any claim regardless of how old the claim is)eliminating hundreds if not thousands of meritless filings.

Cases filed in violation of Federal FDCPA and State Statute of Limitations have no Federal Subject Matter Jurisdiction and cannot be considered cases of first filing for purposes of enjoinder of later filed cases.

LIST OF PARTIES

[X] All parties appear in the caption of the case on the cover page.

[] All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

1st filed action

Pontier vs Daniels 37-2014-00006757-CU-PA-CTL Superior Court of California, San Diego filed March 14, 2014 by Respondent Joseph Dang an attorney on behalf of then client Petitioner David Pontier in San Diego Superior Court 4/ 2014 set for trial December 2015, Respondent Dang requested dismissal of case without Petitioner Pontier knowledge or consent just prior to trial date set December ,2015. Petitioner Pontier upon finding out case closed submitted request case be reopened on basis Petitioner Pontier did not agree to dismissal and Petitioner Pontier substituted as his own council Pro Se. Request denied by San Diego Superior Court.

2nd Filed action

Dang v. Pontier I 3:18-cv-01869-LAB-BGS Federal Interpleader United States District Court Southern District of California filed by Respondent Joseph Dang August 9, 2018 dismissed by Honorable Judge Larry L Burns after Respondent Joseph Dang failed to deposit \$78,202.25 Interpleader funds and failed

3rd filed action (This 3rd filed action is claimed as the 1st filed action for purposes of enjoinder)

Dang v. Pontier II 2nd 19cv1519-GPC-AHG Federal Interpleader filed in United States District Court Southern District of California by Respondent Joseph Dang August 13, 2019 default judgment entered June 2020.

4th filed action (This case transferred and reassigned to United States District Court Southern District of California on claim 3rd filed action Dang v. Pontier II was first filed action)

Pontier V. GEICO 2:20-CV-01446-RFB-BNW filed August 2020 by Petitioner Pontier a resident of Las Vegas Nevada in United States District Court Nevada District

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APPENDIX A

9th Circuit Court of Appeals Memorandum Case 21-55032 September 12, 2023

Appellant Pontier Initial Brief filed United States Court of Appeals For The Ninth Circuit 5/16/2022

United States District Court Order Granting CounterDefendant Dang's Motion To Enjoin Further Prosecution of later filed Suit D.C. No 3:19-cv-01519-GPC-AHG Document 154

Complaint in Interpleader D.C. No 3:19-cv-01519-GPC-AHG Document 1 Filed August 13, 2019

Affidavit Requesting Clerk Entry of Default D.C. No 3:19-cv-01519-GPC-AHG Document 77 June 24, 2020

Order Granting Defendant Pontier's Motion For Default D.C. No 3:19-cv-01519-GPC-AHG Document 98 July 22, 2020

Complaint in Interpleader D.C. No 18-cv-1869-LAB-BGS filed August 8, 2018

Order To Show Cause Re: Dismissal D.C. No 18-cv-1869-LAB-BGS filed filed May 22, 2019

Order of Dismissal D.C. No 18-cv-1869-LAB-BGS filed June 12, 2023

APPENDIX B

APPENDIX C

APPENDIX D

TABLE OF AUTHORITIES CITED

CASES

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Kaiser v. Cascade Capital, LLC 989 F.3d 1127 (9th Cir. 2021)

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The Fair Debt Collection Practices Act ("FDCPA") prohibits debt collection practices that are misleading, unfair, or unconscionable. Those prohibited practices include filing or threatening to file a lawsuit to collect debts that were defaulted on so long ago that a suit would be outside the applicable statute of limitations. The parties ask us to decide whether the FDCPA's prohibitions regarding such "time-barred debts" apply even if it was unclear at the time a debt collector sued or threatened suit whether a lawsuit was time barred under state law.

We hold that they do. The FDCPA takes a strict liability approach to prohibiting misleading and unfair debt collection practices, so a plaintiff need not plead or prove that a debt collector knew or should have known that the lawsuit was time barred to demonstrate that the debt collector engaged in prohibited conduct. Because the district court held the opposite, we reverse and remand for further proceedings.

Cripps v. Life Ins. Co. of North America 980 F.2d 1261 (9th Cir. 1992)

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This appears to be a question of first impression in this circuit.

no subject matter jurisdiction over First American's interpleader action.

(if diverse defendant in interpleader action is procedurally barred from asserting a claim, the court lacks jurisdiction over the entire action), *aff'd*, 767 F.2d 907 (2nd Cir. 1985); *Irving Trust Co. v. Nationwide Leisure Corp.*, 562 F. Supp. 960, 961 (S.D.N.Y. 1982) ("Capitol was made a party to this action in 1979 by service of an interpleader complaint."); *Fox v. McLaughlin*, 195 F. Supp. 774, 774 (W.D.Pa. 1961) (court has no jurisdiction over case where diverse defendant is not served).

We agree with the Metropolitan Life court that a party cannot create diversity by naming as a defendant a party who is not in fact brought into the lawsuit by service of process. A contrary rule — that unserved defendants still count for jurisdictional purposes — would allow plaintiffs to manipulate their cases to create diversity in interpleader actions, where only minimal diversity is required, by "naming" a defendant who is never brought into or even given notice of the suit. Because plaintiffs control who is served, they should bear the burden of serving any defendant who is to be considered for purposes of establishing diversity.

If the citizenship of those defendants not served is disregarded, there is no diversity and hence no subject matter jurisdiction in this case. Because we conclude that only defendants who have been served may be counted for jurisdictional purposes in an interpleader action, there was no diversity and therefore 28 U.S.C. § 1335 conferred no subject matter jurisdiction over LICNA's interpleader action.

Holding that, where "only one party makes a claim against the fund that is insufficient [to confer statutory interpleader jurisdiction]"

Of course, even if the parties do not raise the question of jurisdiction, we must consider that question on our own. See generally C. Wright, *Handbook of the Law of Federal Courts* § 7, at 17-18 (3d ed. 1976).

Dakota Livestock Co. v. Keim, 552 F.2d 1302, 1307 (8th Cir. 1977). Thus, the mere potentiality of independent stakeholder liability, separate from liability for the interpleaded fund, will not defeat interpleader jurisdiction. Yet, the defendant in an interpleader action who also counterclaims must still make some claim against the interpleaded fund. See *Hebel v. Ebersole*, 543 F.2d 14 (7th Cir. 1976); *Gaines v. Sunray Oil Co.*, *supra*, 539 F.2d at 1141-42; *Provident Mut. Life Ins. Co. v. Ehrlich*, 374 F. Supp. 1134, 1136, 1138-39 (E.D.Pa. 1973), *aff'd in part and vacated and remanded in part on other grounds*, 508 F.2d 129 (3d Cir. 1975); *Trowbridge v. Prudential Ins. Co. of America*, 322 F. Supp. 190, 192-93 (S.D.N.Y. 1971). Here, only one party made a claim against the fund and that is insufficient.

STATUTES AND RULES

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California Code Civil Procedure 337 (d).

Where the action is based on a written agreement, it must be filed within 4 years.

(d)When the period in which an action must be commenced under this section has run, a person shall not bring suit or initiate arbitration or other legal proceeding to collect the debt.

1335 (a) The district courts shall have original jurisdiction of any civil action of interpleader or in the nature of interpleader filed by any person, firm, or corporation, association, or society having in his or its custody or possession money or property of the value of \$500 or more, or having issued a note, bond, certificate, policy of insurance, or other instrument of value or amount of \$500 or more, or providing for the delivery or payment or the loan of money or property of such amount or value, or being under any obligation written or unwritten to the amount of \$500 or more, if

(1) Two or more adverse claimants, of diverse citizenship as defined in subsection (a) or (d) of section 1332 of this title, are claiming or may claim to be entitled to such money or property, or to any one or more of the benefits arising by virtue of any note, bond, certificate, policy or other instrument, or arising by virtue of any such obligation; and if (2) the plaintiff has deposited such money or property or has paid the amount of or the loan or other value of such instrument or the amount due under such obligation into the registry of the court, there to abide the judgment of the court, or has given bond payable to the clerk of the court in such amount and with such surety as the court or

judge may deem proper, conditioned upon the compliance by the plaintiff with the future order or judgment of the court with respect to the subject matter of the controversy.(b) Such an action may be entertained although the titles or claims of the conflicting claimants do not have a common origin, or are not identical, but are adverse to and independent of one another.

28 U.S.C. § 1335

1332 (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.

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix to the petition and is

☐ reported at t ; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix to the petition and is

☐ reported at ; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

☐ For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix to the petition and is

☐ reported at ; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the court appears at Appendix to the petition and is

☐ reported at ; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished. 1.

JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was September 14, 2023

☒ No petition for rehearing was timely filed in my case. I was not served with Notice of Ruling Sept 14, 2023 until Mandate issued October 4, 2023 after time to file Petition for rehearing expired. I have to date not been served with 4 pages of the September 14, 2023 ruling and cannot download due to file corruption which caused notice of ruling not to be emailed September 14, 2023. I have made at least 20 attempts to download full ruling as of December 10, 2023, only 6 of 10 page Ruling can be downloaded I get message 32 Post Judgment Form DOCUMENT COULD NOT BE RETRIEVED! (see ruling printed from 9th Circuit Court of Appeals pacer system first 4 pages of ruling are not downloadable) I filed a petition for rehearing and request it be accepted late due to failure of service the 9th Circuit denied.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: , and a copy of the order denying rehearing appears at Appendix .

☐ An extension of time to file the petition for a writ of certiorari was granted to and including (date) on (date) in Application No. A .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from state courts:

The date on which the highest state court decided my case was . A copy of that decision appears at Appendix .

☐ A timely petition for rehearing was thereafter denied on the following date: , and a copy of the order denying rehearing appears at Appendix .

☐ An extension of time to file the petition for a writ of certiorari was granted to and including (date) on (date) in Application No. A .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1335 (a) The district courts shall have original jurisdiction of any civil action of interpleader or in the nature of interpleader filed by any person, firm, or corporation, association, or society having in his or its custody or possession money or property of the value of \$500 or more, or having issued a note, bond, certificate, policy of insurance, or other instrument of value or amount of \$500 or more, or providing for the delivery or payment or the loan of money or property of such amount or value, or being under any obligation written or unwritten to the amount of \$500 or more, if

(1) Two or more adverse claimants, of diverse citizenship as defined in subsection (a) or (d) of section 1332 of this title, are claiming or may claim to be entitled to such money or property, or to any one or more of the benefits arising by virtue of any note, bond, certificate, policy or other instrument, or arising by virtue of any such obligation; and if (2) the plaintiff has deposited such money or property or has paid the amount of or the loan or other value of such instrument or the amount due under such obligation into the registry of the court, there to abide the judgment of the court, or has given bond payable to the clerk of the court in such amount and with such surety as the court or judge may deem proper, conditioned upon the compliance by the plaintiff with the future order or judgment of the court with respect to the subject matter of the controversy.(b) Such an action may be entertained although the titles or claims of the conflicting claimants do not have a common origin, or are not identical, but are adverse to and independent of one another.

28 U.S.C. § 1335

1332 (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.

STATEMENT OF CASE

Question I

United States District Court Southern District of California District Judge Honorable Gozalo Curiel inappropriately applied First to Rule to transfer United States District Court Nevada case Pontier V. G.E.I.C.O. Insurance which included Defendant Respondent The State Bar Association of California, whom were not parties to the Federal Interpleader Dang V. Pontier II assigned to District Judge Honorable Gonzalo Curiel a former employee\advisor and association member of The State Bar of California creating a conflict of interest where no conflict of interest existed prior to case transfer and reassignment.

Dang V. Pontier II Federal Interpleader filed August 13, 2019 United States District Court Southern District of California assigned District Judge Honorable Gozalo Curiel default judgement entered July 22, 2020.

Respondent The Bar Association of California was not a party to Dang V. Pontier II.

District Judge Honorable Gozalo Curiel served on Defendant/Respondent The State Bar of California's Criminal Law Advisory Commission from 1994 to 1998, spending one year as chair and another year as vice chair. District Judge Honorable Gozalo Curiel admitted member of Respondent The State Bar of California in 1986.

Pontier v. G.E.I.C.O. Insurance filed August 4, 2020 United States District Court District Nevada assigned District Judge Honorable Richard F. Boulware, II with no prior association to Defendant Respondent The Bar Association of California.

Petitioner Pontier is a resident of Las Vegas, Nevada. Petitioner Pontier suffered spinal injuries in automobile accident while on vacation in San Diego, California. As a result Petitioner Pontier had spinal surgery 3/15/2015 in Las Vegas, Nevada. Petitioner Pontier purchased an automobile policy including uninsured motorists from Respondent GEICO Insurance. Petitioner Pontier paid all GEICO Insurance premium payments from his bank account credit cards in Las Vegas, Nevada.

Petitioner Pontier filed Pontier V. G.E.I.C.O. Insurance in United States District Court Nevada District Nevada which was jurisdiction in which 90% of the events that form basis of this case occurred and continue to occur as Petitioner Pontier is disabled and still receives medical treatment in Las Vegas, Nevada for injuries from automobile accident which caused disability.

Respondent Joseph Dang an attorney association member of Respondent The Bar Association of California filed and Motion to Enjoin cases requesting filed Pontier V. G.E.I.C.O. Insurance in United States District Court Nevada District Nevada be moved to United States District Court Southern District of California.

Respondent Joseph Dang was named a Defendant in Pontier v. G.E.I.C.O. Insurance but had not been served with the lawsuit prior to filing motion to enjoin. Respondent Dang had no standing to file his

Motion To Enjoin Pontier v. G.E.I.C.O. Insurance case to his defaulted Interpleader Dang V. Pontier II prior to service.

Honorable Gozalo Curiel issued order under First to File Rule transferring and reassigning Pontier v. G.E.I.C.O. Insurance enjoining case with to United States District Court Southern District of California assigned District Judge Honorable Gozalo Curiel.

Honorable District Judge Gozalo Curiel did not address in the "ORDER GRANTING COUNTERDEFENDANT DANG'S MOTION TO ENJOIN FURTHER PROSECUTION OF LATER FILED SUIT" his previous employment, association membership to Defendant/Respondent The State Bar of California and did not address possibility that reassignment of the case would cause a conflict of interest.

Established precedent of the United States Supreme Court and U.S. Court of Appeals that all Judges Federal and State should recuse themselves from cases involving former employers, groups which they had previously been a member.

Application of First to File rule was not fundamentally fair as Respondent The Bar Association of California was not a party to United States District Court Southern District of California case Dang V. Pontier II default judgement entered July 22, 2020 before Pontier V. G.E.I.C.O. Insurance filed August 4, 2020 creating a conflict of interest where no conflict of interest would exists if the case remained in the filing district

On appeal 9th Circuit Court of Appeals ruled that under First to File Rule reassignment of case to District Judge Gonzalo Curiel in California District was just as fair as if the case remained before District Judge Honorable Richard F. Boulware, II in Nevada District.

9th Circuit Court of Appeals decision that reassignment of case was fundamentally fair conflicts with United States Supreme Court precedent, 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th Circuit Court of appeals prior rulings and precedent that Judges in all courts federal and state must hold themselves to a high standard and recuse themselves from cases in which a conflict of interest exists.

Now that Pontier V. G.E.I.C.O. Insurance case has been moved to United States District Court Southern District of California. Petitioner Pontier cannot hire an attorney as a high percentage if not all of the attorneys admitted to practice in United States District Court Southern District of California are members of The Bar Association of California and will not accept Petitioner Pontier case due to conflict of interest being members of Respondent The Bar Association of California.

Petitioner Pontier is disabled transfer of Pontier V. G.E.I.C.O. Insurance to United States District Court Southern District of California ensures Petitioner Pontier whom must now represent himself Pro Se. will not be able to attend court hearing personally without travelling over 300 miles each way at great expense in violation of the American With Disabilities Act.

District Judge Honorable Gonzalo Curiel did not address the possible Conflict of Interest reassigning case Pontier V. G.E.I.C.O. Insurance across district and state to himself would create prior to issuing order to

enjoin cases creating reversible error requiring the "ORDER GRANTING COUNTERDEFENDANT DANG'S MOTION TO ENJOIN FURTHER PROSECUTION OF LATER FILED SUIT" be remanded and reversed.

Statement of Case

Question II

United States District Court Southern District of California had no Jurisdiction or Venue to rule on Federal Interpleader Dang V. Pontier II filed August 13, 2019 all (4) Interpleader claims based upon medical debt from 2012-2014 were procedurally barred after California (4) year Statute of Limitations had expired claims were procedurally barred Federal FDCPA and California Code Civil Procedure 337(d) which prohibits filing of any legal action based upon time barred debt.

Loop hole in 28 USC 1332, 1335 does not require claim dates be specified at time of Interpleader filing. Allowing for Federal Interpleader to be filed by a third party Stakeholder based upon claims which have expired under Federal or State Statute of Limitations in violation of the FDCPA.

Respondent Dang an attorney member of The Bar Association of California specializing in car accident cases Respondent Dang must have known been aware of California Statute of Limitations and all claims being older than 4 years were procedurally barred under California Code Civil Procedure 337.

California Code Civil Procedure 337 (d).

Where the action is based on a written agreement, it must be filed within 4 years.

(d)When the period in which an action must be commenced under this section has run, a person shall not bring suit or initiate arbitration or other legal proceeding to collect the debt.

Respondent	Date of last item	Procedurally barred	Expired Prior Interpleader Filed
			August 13, 2019
Nusbuam	Aug. 8, 2012	Aug 8, 2016	(3) years (5) days
Dr. Kim	Feb. 26, 2013	Feb 26, 2017	(2)years(5)months(18)days
Dr. Yoo	Mar. 20,2013	Mar 20, 2017	(2)years(5)months(7)days
UMR	Dec. 30 2014	Dec 30, 2018	(7) months (13) days

On Appeal 9th Circuit Court of Appeals ruled that residence of Respondent Kim, Respondent Yoo, Respondent Nusbuam San Diego, California could be used to establish Federal Jurisdiction and venue with United States District Court Southern District of California without consideration if claims were filed after expiration of Statute of limitations violating FDCPA conflicting with:

Kaiser v. Cascade Capital, LLC 989 F.3d 1127 (9th Cir. 2021)

The Fair Debt Collection Practices Act ("FDCPA") prohibits debt collection practices that are misleading, unfair, or unconscionable. Those prohibited practices include filing or threatening to file a lawsuit to collect debts that were defaulted on so long ago that a suit would be outside the applicable statute of limitations. The parties ask us to decide whether the FDCPA's prohibitions regarding such "time-barred debts" apply even if it was unclear at the time a debt collector sued or threatened suit whether a lawsuit was time barred under state law.

We hold that they do. The FDCPA takes a strict liability approach to prohibiting misleading and unfair debt collection practices, so a plaintiff need not plead or prove that a debt collector knew or should have known that the lawsuit was time barred to demonstrate that the debt collector engaged in prohibited conduct. Because the district court held the opposite, we reverse and remand for further proceedings.

Cripps v. Life Ins. Co. of North America 980 F.2d 1261 (9th Cir. 1992)

(if diverse defendant in interpleader action is procedurally barred from asserting a claim, the court lacks jurisdiction over the entire action), aff'd, 767 F.2d 907 (2nd Cir. 1985); Irving Trust Co. v. Nationwide Leisure Corp., 562 F. Supp. 960, 961 (S.D.N.Y. 1982) ("Capitol was made a party to this action in 1979 by service of an interpleader complaint."); Fox v. McLaughlin, 195 F. Supp. 774, 774 (W.D.Pa. 1961) (court has no jurisdiction over case where diverse defendant is not served).

We agree with the Metropolitan Life court that a party cannot create diversity by naming as a defendant a party who is not in fact brought into the lawsuit by service of process. A contrary rule — that unserved defendants still count for jurisdictional purposes — would allow plaintiffs to manipulate their cases to create diversity in interpleader actions, where only minimal diversity is required, by "naming" a defendant who is never brought into or even given notice of the suit. Because plaintiffs control who is served, they should bear the burden of serving any defendant who is to be considered for purposes of establishing diversity.

In this case only Petitioner Pontier made a claim to the Interpleader funds

Respondent UMR had agreement with stakeholder Respondent Dang that Respondent Dang would not include Respondent UMR in any Federal Interpleader yet Respondent Dang an attorney asserted claim on behalf of Respondent UMR against agreement not to include Respondent UMR in the Interpleader.

Respondent Dang affected service on Respondent UMR than immediately requested Respondent UMR be dismissed from the Interpleader.

Again Respondent Dang an attorney asserted expired claim on behalf of Respondent Kim, Respondent Nusbuam and Respondent Yoo without their approval.

Respondent Kim, Defendant Nusbuam, Respondent Yoo each choose separately not file Answer as they were aware the claims attributed to them by Respondent Dang were filed after the California 4 year statute of limitations had expired and did not want claims filed on their behalf.

In this case only Petitioner Pontier made a claim to the Interpleader funds as there was only 1 claimant there was no Federal Jurisdiction

Libby, McNeill, & Libby v. City Nat. Bank 592 F.2d 504 (9th Cir. 1979)

Holding that, where "only one party makes a claim against the fund that is insufficient [to confer statutory interpleader jurisdiction]"

United States District Court Southern District of California had no Jurisdiction or Venue to rule on Federal Interpleader Dang V. Pontier II filed August 13, 2019 under 28 USC 1332, 1335 as all (6) Defendants had prior agreement with Respondent Dang not to include them in the Federal Interpleader and had made no claims after the statute of limitations had expired.

After years of litigation, multiple hearings, hundreds of filings, appeal this case reached the United States Supreme Court.

All of the Federal Court time and resources and Petitioner time and resources wasted upon a Federal Interpleader based on procedurally barred claims could have been saved had 28 U.S.C. 1335, 1332 required claim dates be submitted for each claim.

The 9th Circuit Court finding that procedurally barred claims attributed to Respondent UMR, Respondent Kim, Respondent Nusbuam, Respondent Yoo may be the basic for Federal Subject Jurisdiction and venue directly conflicts with rulings of several district Courts and other rulings of the 9th Circuit Court of appeals.

Interpleader 19cv1519-GPC-AHG had no Federal Subject Matter Jurisdiction under 28 U.S.C. 1335(a), 28 U.S.C. 1332(a), 28 U.S.C. 1397 requiring a finding of no federal jurisdiction remand and dismissal of the Interpleader as the Interpleader had no federal jurisdiction it cannot be considered a first filed case for purposes or enjoinder and the Order of Enjoinment must be vacated.

REASONS FOR GRANTING THE PETITION

United States Supreme Court establish criteria by which United States District Judges may transfer cases across district, states where transfer of cases creates conflict of interest.

United States Supreme Court establish guidelines for Federal Interpleader requiring Filer provide dates and certify that claim is filed in good faith, has not expired under applicable statute of limitations and is not procedurally barred by FDCPA.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



David Pontier, Pro se.

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702-861-8845

Date: December 11, 2023