



Hines v. Spirit Airlines Inc.

2022 | Cited 0 times | D. Massachusetts | October 17, 2022

UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

FRANCES HINES,) Plaintiff,) Civil Action No.
22-10490-FDS v.) SPIRIT AIRLINES, INC.,) Defendant.)

MEMORANDUM AND ORDER ON PLAINTIFF S MOTION SAYLOR, C.J.

This case arises from a dispute between an airline and a passenger. Plaintiff Frances Hines alleges that before and after her flight, employees of defendant Spirit Airlines, Inc. discriminated against her on the basis of her disability, treated her harshly, improperly forced her to pay to check a bag, and refused to help her file a complaint. Hines, who is proceeding pro se, initially filed this suit in the Boston Municipal Court, asserting claims of breach of contract, discrimination on the basis of disability, violation of due process, violation of civil rights, and infliction of emotional distress. Spirit removed the action to federal court, and now moves to dismiss the action pursuant to the Air Carrier Access Act, 49 U.S.C. § 41705. Plaintiff opposes the motion to dismiss and has separately moved to remand the action to the Boston Municipal Court.

For the following reasons, the motion to remand will be granted. Defendant s motion to dismiss will be denied as moot. I. Background

A. Factual Background Unless otherwise noted, the facts are stated as set forth in the complaint. Frances Hines is a resident of Roxbury, Massachusetts. Spirit Airlines, Inc. is an air carrier that operates flights throughout the United States. The complaint alleges that, on September 8, 2014, Hines flew from Atlanta, Georgia, to Boston, Massachusetts. (Compl. at 3). It alleges that before the flight, she than [any] other fellow passenger[s] in a public place. (Id.). Spirit employees allegedly

demand that she terminal. (Id.). The employees asked her to pay to check her bag again, despite the fact that she already paid to check her bag. (Id. alleges that she was embarrassed and humiliated by the experience. (Id.). She sought medical attention because of elevated blood pressure. (Id.).

Upon arriving in Boston, Hines visited the Spirit customer service desk and asked to file a complaint. (Id.). The complaint alleges that she was ignored. (Id.).

B. Procedural History Hines first filed suit against Spirit on August 31, 2020, in Suffolk Superior Court. The complaint was based on the same set of facts as in the present case. It asserted claims of



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infliction of emotional distress, discrimination on the basis of disability under Mass. Gen. Laws. ch. 272, § 98, and violation of her due-process rights under the U.S. Constitution. Spirit moved to dismiss, arguing that the court lacked personal jurisdiction; that Georgia was the proper venue for suit; that federal law preempted the claim; and that the complaint failed to state a claim upon which relief could be granted. Hines (1) to amend her complaint to assert a claim under the Americans with Disabilities Act to avoid a federal preemption issue and (2) to show that her claim met the jurisdictional threshold for actions in the Superior Court.

On February 11, 2022, Hines voluntarily dismissed that complaint. On February 28, 2022, Hines filed a new complaint in the Boston Municipal Court. The new complaint asserts claims of breach of contract, discrimination, violation of due process, violation of civil rights, and infliction of emotional distress. It requests damages of \$7,000.

On April 4, 2022, Spirit removed the action from the Boston Municipal Court to this court. In its notice of removal, Spirit contends that the federal courts have original jurisdiction over the action because the complaint alleges claims based on federal law. Specifically, Spirit contends that the claims of discrimination, violation of due process, and violation of civil rights should be properly construed as federal claims.

On April 11, 2022, Spirit moved to dismiss, contending that all claims should be dismissed with prejudice. It contends that the complaint asserts a claim under the ADA, and that such a claim is untimely and fails as a matter of law. It further contends that the Air Carrier Access Act governs the action and precludes a private right of action. Finally, it contends that the remaining claims are not cognizable as a matter of law.

On April 12, 2022, Hines filed a motion to remand the action to the Boston Municipal Court. She contends that the federal courts do not have subject-matter jurisdiction (1) because all claims are based on Massachusetts law, not federal law, and (2) because the sought damages is less than \$100,000. II. Motion to Remand

A defendant may remove a civil action brought in state court to the federal court 1441(a). The removed action must be one over which the federal courts have original jurisdiction. *Id.* A defendant may remove any civil action from a state court to the federal court within which the action is pending by filing a notice of removal within thirty days of receipt of either the pleading or a summons. *Id.* § 1446(a). Here, defendant timely removed the action to the District of Massachusetts.

Plaintiff contends that this court does not have subject-matter jurisdiction over the action, and that therefore the case should be remanded.

A. Legal Standard The c that is, cases Generally speaking, federal-question jurisdiction arises only if a federal claim appears



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BIW Deceived v. Local S6, Industrial Union of Marine & Shipbuilding Workers of Am., 132 F.3d 824, 831 (1st Cir. 1997). There is no amount-in-controversy requirement for federal-question jurisdiction.

Federal courts have also have original jurisdiction over cases in which there is complete diversity among the parties and the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332(a). The amount set forth by plaintiff in the complaint controls as long as it was asserted in good faith. See Barrett v. Lombardi, 239 F.3d 23, 30 (1st Cir. 2001) (citing St. Paul Mercury Indem. Co. v. Red Cab Co., 303 U.S. 283, 288 (1938)).

Finally, the complaint must be construed liberally in light of pro se status. [A] document filed pro se is to be liberally construed . . . and a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by Erickson v. Pardus, 551 U.S. 89, 94 (2007) (quoting Estelle v. Gamble, 429 U.S. 97, 106 (1976)) (internal citations and quotation marks omitted); see also Fed. R. Civ. P. 8(e) Pleadings must be construed so as to do justice. determined effort to understand what the pleader is attempting to set forth and to construe the 5 CHARLES ALAN WRIGHT & ARTHUR MILLER, FEDERAL PRACTICE & PROCEDURE § 1286 (4th ed.) (internal citations omitted). The federal rules do not, however, Id.

B. Analysis The complaint asserts five claims: breach of contract, discrimination, violation of due process, violation of civil rights, and infliction of emotional distress. It expressly alleges that the plaintiff is seeking \$7,000 in damages.

A fair view of the complaint and other pleadings suggest that plaintiff is attempting to assert claims under Massachusetts law. The complaint does not mention the U.S. Constitution or the ADA, nor does plaintiff characterize her discrimination, due-process, and civil-rights claims as federal claims. Her motion for remand contends that the federal courts do not have Plaintiff was certainly on notice that she could bring an ADA claim; -

cause order expressly warned her that she must assert her discrimination claims under the ADA to avoid a possible federal-preemption issue. Furthermore, the original Superior Court complaint filed by plaintiff referred to the U.S. Constitution. She did not, however, cite either the ADA or U.S. Constitution in her current complaint.

Under the circumstances, it seems clear that plaintiff seeks only to assert state-law claims. The Fair v. Kohler Die & Specialty Co. The availability of a parallel federal-law cause of action does not create federal-question jurisdiction where a wholly state-law claim is , LLC, 2014 WL 7361243, at *2 (D. Mass. 2014). The -law claims.

First, the complaint simply 3). The factual allegations provide some context: plaintiff (Id.). The implicit claim of the se (Id.). That claim will be construed as a claim for discrimination on the basis of disability or handicap in a place of public accommodation under either Massachusetts (or possibly



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Georgia) law. See Mass. Gen. Laws ch. 272, § 98; GA. CODE. ANN. § 30-4-2 (West 2022).

It is certainly possible that such a claim would be entirely preempted by federal law. See 35 MASS. PRAC., CONSUMER LAW § 4:14 (4th ed.) (noting that federal statutes often preempt state laws that could regulate air travel); *Lopez v. Jet Blue Airways*, 662 F.3d 593, 597-98 (2d Cir. 2011) (noting consensus among the federal circuits that the ACAA precludes private rights of action against air carriers). But construing the claim as an ADA claim would probably doom it as well, because the ADA does not apply to air transportation. See 42 U.S.C. § 12181(10); *Access Now, Inc. v. Southwest Airlines Co.*, 385 F.3d 1324, 1332 (11th Cir. 2004). In any event, the futility of a claim on remand is not a reason to reject remand; the statute requires that if a removed action fails for lack of subject-matter jurisdiction, the district court case. 28 U.S.C. 1447(c); see also - *Atlantic, Inc.*, 296 F. Supp. 2d 13, 19-20 (D. Mass. 2003) (collecting numerous cases from the federal courts holding that futility of a claim upon remand should not prevent remand).

Second, the complaint alleges that Spirit It notice of removal contends that a due-process claim creates federal-question jurisdiction because such a claim necessarily arises under the U.S. Constitution. (Notice of Removal ¶ 13). However, it is possible to construe the due-process claim as a state constitutional claim. The Massachusetts Constitution provides due-process rights that are distinct from those provided by the U.S. Constitution. See *Coffee-Rich, Inc. v. Commissioner of Public Health*, 348 Mass. 414, 421-22 (1965) (noting that Articles 1, 10, and 12 of the Massachusetts Declaration of Rights provide due-process rights that constrain the state police power); *Goodridge v. Department of Pub. Health*, 440 Mass. 309, 329 (2003) (noting that the Massachusetts Constitution provides equal protection and due-process rights). If Georgia law applies, the claim could be construed as -process rights. See GA. CONST. art. I, § 1 (West 2022). The Court will therefore construe the due-process claim as one arising under state constitutional law, not federal law.

Again, the

conduct. The notice of removal contends that a civil-rights claim creates federal-question jurisdiction because such rights are necessarily created by federal law. (Notice of Removal ¶ 13). However, Massachusetts law creates a variety of civil rights, including the right to be free from disability discrimination in places of public accommodation. Mass. Gen. Laws ch. 272, § Massachusetts also has a separate civil-rights statute, although substantially narrower than its federal counterpart. Mass. Gen. Laws ch. 12, §§ 11H-11J. If Georgia law applies, Georgia requires equal treatment of disabled persons on common carriers, airplanes, and places of public accommodation. GA. CODE. ANN. § 30-4-2 (West 2022). The Court will, therefore without deciding which statute is most appropriate for the action construe the civil-rights claim as one arising under state law, not federal law.

Finally, the complaint asserts claims of breach of contract and infliction of ional [di] -of-contract claim appears to arise out of the allegation that plaintiff had paid for a checked bag and that Spirit



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employees forced her to pay for the checked bag again. The emotional-distress claim appears to arise out of the allegation Spirit employees in Atlanta left her humiliated and embarrassed, to the point where her blood pressure rose, forcing her to seek medical attention. (Compl. at 3). Those are state-law claims that do not implicate federal-question jurisdiction.

-law claims. There is no diversity jurisdiction over the action because the complaint, in apparent good faith, pleads damages of only \$7,000, well below the amount-in-controversy requirement. Because federal question and diversity jurisdiction are lacking, remand is appropriate. Whether those claims can survive a defense of federal preemption, or must fail for any other reason, is not a basis to deny remand. III. Motion to Dismiss

Because the Court will remand the case to state court, it need not consider defendant's motion to dismiss. It will therefore be denied as moot. IV. Conclusion

For the foregoing reasons, GRANTED. Defendant's motion to dismiss is DENIED as moot. So Ordered.

/s/ F. Dennis Saylor IV F. Dennis Saylor IV Dated: October 17, 2022 Chief Judge, United States District Court

