IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

LIBERTARIAN NATIONAL, COMMITTEE INC., Plaintiff, v. LIBERTARIAN PARTY OF NEW MEXICO, et al, Defendants.	CIVIL ACTION NO.: 1:26-cv-01562-MIS-KK

DEFENDANTS' MOTION TO DISMISS UNDER RULES 12(b)(1) and 12(b)(6) AND MEMORANDUM IN SUPPORT

I. MOTION

Defendants move to dismiss Chris Luchini, Laura Burrows, Paul McKenney, Frederick Snoy, and James Wernicke (the "Individual Defendants") under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim against them. Defendants additionally move under Rule 12(b)(1) to dismiss Count V (conversion) for lack of subject-matter jurisdiction.

The Complaint names the five Individual Defendants but pleads no facts describing what any of them personally did that support any theory of liability. It identifies each only by a title held with Defendant Libertarian Party of New Mexico ("LPNM") and a home address, and then pleads every act of alleged infringement, and every other claim, against "Defendants" as an undifferentiated group or against LPNM as an entity.

Because a person is not personally liable under the Lanham Act, or for conversion, merely by holding office in an organization accused of wrongdoing, and because the Complaint alleges no individualized conduct by any of the five, every claim against the Individual Defendants should be dismissed.

Count V should also be dismissed for the independent reason that the Court lacks subject-matter jurisdiction over it.

Pursuant to D.N.M.LR-Civ. 7.1(a), Defendants' counsel sought Plaintiff's concurrence in the relief requested. Plaintiff opposes this Motion.

II. INTRODUCTION

This is a trademark dispute between two political organizations over the name "Libertarian Party of New Mexico." Plaintiff Libertarian National Committee ("LNC") could have sued the organization it accuses of infringement, LPNM, and litigated that institutional dispute. Instead, it also named five individuals. But the Complaint never alleges that any of the five selected or adopted the name—which has been in place since at least 1973—or personally did anything else besides being volunteers for LPNM. The five appear in the caption, in five "Parties" paragraphs reciting their titles and addresses, and thereafter only inside the collective label "Defendants."

Under *Ashcroft v. Iqbal* and *Bell Atlantic Corp. v. Twombly*, those bare allegations are not nearly enough. A complaint must plead facts that make each defendant's personal liability plausible. Holding a position on a nonprofit board is not personal participation in tortious conduct, and a collective "Defendants" label is not a substitute for individualized allegations. The

Complaint fails that standard as to each Individual Defendant on every count, and the claims against them should be dismissed.

III. THE COMPLAINT'S TOTAL ALLEGATIONS AGAINST THE INDIVIDUAL DEFENDANTS

The only allegations in the Complaint that mention any Individual Defendant are the five "Parties" paragraphs, which recite each individual's city of residence and alleged title:

- Chris Luchini is alleged to reside in White Rock, New Mexico, and to be "the Chairman and a Director of LPNM." Compl. ¶ 3.
- Laura Burrows is alleged to reside in White Rock, New Mexico, and to be "the Director of LPNM." Compl. ¶ 4.
- Paul McKenney is alleged to reside in Albuquerque, New Mexico, and to be "the Co-Treasurer of LPNM." Compl. ¶ 5.
- Frederick Snoy is alleged to reside in Albuquerque, New Mexico, and to be "a Director of LPNM." Compl. ¶ 6.
- James Wernicke is alleged to reside in Los Alamos, New Mexico, and to be "the Co-Treasurer of LPNM." Compl. ¶ 7.

That is the entirety of the individualized content. Every other allegation in the Complaint is pleaded against "Defendants" collectively or against "LPNM." The factual background describes acts of the organization: LPNM severed its affiliation, Compl. ¶ 16; LPNM continued using the mark, Compl. ¶¶ 17–19; LPNM affiliated with the Liberal Party USA, Compl. ¶¶ 20–22; LPNM holds social media accounts, Compl. ¶ 24. The infringement counts likewise allege that

"Defendants" used the mark, "Defendants" received money, and "Defendants" acted willfully. Compl. ¶¶ 31–38, 45–53, 60–68. No paragraph alleges that Luchini, Burrows, McKenney, Snoy, or Wernicke personally took any of the infringing actions, much less to a degree that would confer individual liability.

Two of the Complaint's own allegations confirm the deficiency. The Complaint alleges that cease-and-desist letters were sent to "the Defendants" and to "LPNM and its officers," Compl. ¶ 25, but receiving a letter is not using a mark. And the Complaint elsewhere attributes the challenged conduct to "Defendants or their predecessor officers," Compl. ¶ 26 (emphasis added), conceding that the persons who took the actions complained of may not be these five individuals at all.

The conversion count (Count V) is no different. It alleges that a bequest was left "to the Libertarian Party of New Mexico," is "held in escrow," and is "disbursed each year to the Libertarian Party of New Mexico." Compl. ¶ 81. It then alleges that "Defendants failed to" transfer the funds and that "Defendants have received annual distributions." Compl. ¶¶ 83–84. No individual is alleged to have personally received, possessed, or exercised control over the trust.

IV. LEGAL STANDARD

To survive a Rule 12(b)(6) motion, a complaint must contain sufficient factual matter, accepted as true, to state a claim that is plausible on its face. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A claim is plausible only when the plaintiff pleads factual content allowing the reasonable inference that the defendant is liable for the misconduct alleged. *Iqbal*, 556 U.S. at 678. Threadbare recitals of a claim's elements and conclusory statements do not suffice and are not entitled to the presumption of truth. *Id.*; *Khalik v. United Air Lines*, 671 F.3d 1188, 1190–91 (10th Cir. 2012) ("plausibility refers to the scope of the allegations in a complaint: if they are so general that they encompass a wide swath of conduct, much of it innocent, then the plaintiffs have not nudged their claims across the line from conceivable to plausible.") (internal citations omitted).

This pleading standard is not confined to any particular kind of case. The Supreme Court announced it in an antitrust dispute, *Twombly*, 550 U.S. at 555–57, 564–66 (declining to credit a conclusory allegation that multiple defendants had conspired), and in *Iqbal* confirmed that, because the standard derives from Rule 8, it governs "all civil actions" alike, *Iqbal*, 556 U.S. at 684; *see also Brooks v. Mentor Worldwide LLC*, 985 F.3d 1272, 1281 (10th Cir. 2021) (applied in a products liability case).

A corollary governs suits against individuals. Each defendant is "only liable for his or her own misconduct," "his or her title notwithstanding," and must be shown to have caused the violation through the defendant's "own individual actions." *Iqbal*, 556 U.S. at 676–77.

Where a complaint names multiple defendants, the plausibility standard requires more than collective allegations. The Tenth Circuit has held that in such cases it is "particularly important" that the complaint "make clear exactly who is alleged to have done what to whom," so that each defendant has fair notice of the grounds for the claim against that defendant specifically. *Robbins v. Oklahoma*, 519 F.3d 1242, 1249–50 (10th Cir. 2008). Undifferentiated pleading that lumps defendants together under the collective term "defendants" fails Rule 8 and Rule 12(b)(6). *Id.* at 1250.

On a Rule 12(b)(1) motion, the plaintiff also bears the burden of establishing subject-matter jurisdiction, and a claim must be dismissed when no basis for federal jurisdiction appears. *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94–95 (1998); *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). Federal courts are courts of limited jurisdiction, and the presumption is against jurisdiction. *Kokkonen*, 511 U.S. at 377. Subject-matter jurisdiction cannot be waived and may be raised at any stage. *Arbaugh v. Y & H Corp.*, 546 U.S. 500, 506 (2006); Fed. R. Civ. P. 12(h)(3).

V. ARGUMENT

A. The Complaint pleads no individualized facts against any Individual Defendant and fails under *Iqbal/Twombly*.

Stripped of the five "Parties" paragraphs reciting titles, the Complaint says nothing about any Individual Defendant. It does not allege that Luchini, Burrows, McKenney, Snoy, or Wernicke personally adopted the name, made any decision about the mark, or personally infringed it. It attributes every act to "Defendants" collectively or to LPNM. That is precisely the pleading *Robbins* forbids: a plaintiff suing multiple individuals must "make clear exactly who is alleged to have done what to whom." 519 F.3d at 1249–50. The Complaint never does. And that requirement is not peculiar to civil-rights cases; the plausibility standard governs all civil actions, *Iqbal*, 556 U.S. at 684, and *Robbins* is the Tenth Circuit's application of that general Rule 8 requirement to complaints against multiple defendants.

The Complaint's collective use of "Defendants" cannot be cured by inference. With five individuals and an organization grouped under one label, neither the Court nor any Individual Defendant can tell which person is alleged to have done what. *Robbins* holds that this undifferentiated approach denies each defendant fair notice and fails as a matter of law. *Id.* at 1250. And the Complaint's own hedge, attributing the conduct to "Defendants or their predecessor officers," Compl. ¶ 26, underscores that the LNC has not alleged, because it cannot, that these five individuals personally did *anything*. And it cannot. Because Plaintiff has no factual basis to make any such allegations in good faith.

B. Title alone is not a basis for personal Lanham Act liability; the Complaint alleges no personal participation or alter ego.

Personal liability for trademark infringement does not follow from a defendant's role in an organization. Crediting Plaintiffs theory that a corporate officer or director can be personally liable for the corporation's trademark infringement for the sake of argument, the individual is personally liable only where they actively and knowingly caused the infringement as a moving, conscious force behind it. *See Chanel, Inc. v. Italian Activewear of Fla., Inc.*, 931 F.2d 1472, 1477–78 (11th Cir. 1991). Conversely, merely holding a position is not enough; the complaint must allege that the individual personally engaged in or directed the infringing activity. That a defendant holds a title supplies no shortcut: each defendant answers only for "his or her own misconduct," "title notwithstanding." *Iqbal*, 556 U.S. at 677.

The Complaint alleges only titles: Chairman, Director, Co-Treasurer. Compl. ¶¶ 3–7. It does not allege that any of these individuals chose or approved the name in 1973, or decided anything regarding the mark thereafter. A title is a status, not an act. Absent factual allegations of personal participation, authorization, or direction, the Individual Defendants are not personally liable, and the infringement counts against them fail.

To the extent the LNC suggests that Luchini's title as "Chairman" implies control over the conduct at issue, the Complaint does not so allege, and the inference is unavailable on these facts. The Complaint pleads a divided governance structure, two Directors, two Co-Treasurers, and a Chairman, Compl. ¶¶ 3–7, not a sole proprietor or single controlling owner who necessarily directs every act of the organization. Nothing in the Complaint alleges that any one of the five controlled LPNM's decisions about the name or the mark. It does not provide specifics of dates of the purportedly infringing actions, or the terms the individuals were even on the board. The bare recitation of a title cannot supply the personal participation and control allegation the law requires.

Nor has the LNC pleaded any alternative basis for imposing Lanham Act liability on the Individual Defendants. It does not plead alter ego or veil piercing. It does not plead contributory infringement, which would require facts showing intentional inducement of infringement or continued supply of a product or service despite knowledge of infringement. *See Inwood Labs., Inc. v. Ives Labs., Inc.*, 456 U.S. 844, 854 (1982) (intentional inducement); *Hard Rock Cafe Licensing Corp. v. Concession Servs., Inc.*, 955 F.2d 1143, 1148–49 (7th Cir. 1992) (willful blindness not sufficient). Nor does it plead facts supporting vicarious liability, such as the right and ability to supervise the specific infringing conduct together with a direct financial interest in that conduct. The Complaint instead proceeds on a single impermissible theory: that officers and volunteers of LPNM are liable because LPNM allegedly used the mark. That is not Lanham Act liability; it is status-based liability.

C. The Complaint does not allege that any Individual Defendant personally used the mark "in commerce."

The Lanham Act reaches only a defendant's "use in commerce" of the mark. 15 U.S.C. § 1114(1)(a); *id*. § 1125(a)(1). The Complaint identifies only institutional uses, LPNM's website, its social media accounts, its fundraising, its electoral activities, Compl. ¶¶ 20–26, 31–34, and pleads no fact showing that any Individual Defendant personally used the mark in commerce in his or her individual capacity. Allegations that individuals hold titles in an organization that used a mark do not plausibly allege that those individuals personally used the mark in commerce. The Complaint thus fails to plead an essential element of each Lanham Act claim as to each Individual Defendant.

The statutory text reinforces the point. Section 1114 imposes liability on the "person" who, without consent, "use[s] in commerce" a reproduction, counterfeit, copy, or colorable imitation of the registered mark, and § 1125(a) likewise reaches the person who uses a challenged designation in commerce. 15 U.S.C. §§ 1114(1)(a), 1125(a)(1). The statute does not impose derivative liability on everyone who holds office in an organization that allegedly used a mark. Because the Complaint identifies only LPNM's alleged institutional uses and no personal use by any Individual Defendant, the Lanham Act counts fail as to each of them.

D. Count V (conversion) must be dismissed for lack of subject-matter jurisdiction and, independently, for failure to allege any individual conduct.

1. The Court lacks subject-matter jurisdiction over Count V.

The Complaint invokes only federal-question jurisdiction under 28 U.S.C. § 1331. Compl. ¶ 8. Count V is a state-law conversion claim. It does not arise under federal law, and § 1331 does not supply jurisdiction over it. The only conceivable basis for jurisdiction over Count V is supplemental jurisdiction under 28 U.S.C. § 1367, which the Complaint does not invoke, and which does not reach this claim.

Under § 1367(a), a supplemental claim must form part of the same Article III case or controversy as the federal claims, meaning it must arise from a common nucleus of operative fact. *United Mine Workers of Am. v. Gibbs*, 383 U.S. 715, 725 (1966); *Estate of Harshman v. Jackson Hole Mountain Resort Corp.*, 379 F.3d 1161, 1165 (10th Cir. 2004). Even if some background facts overlap, the operative facts necessary to prove trademark infringement and conversion are distinct. The trademark claims concern LPNM's use of the name "Libertarian Party" and the likelihood of confusion. The conversion claim concerns a 2016 bequest from a third party, held under a 2018 escrow agreement by a trustee, with annual disbursements from that escrow. Compl. ¶¶ 81–84. Different facts, different witnesses, different documents, and different legal questions govern the two sets of claims, and they do not derive from a common nucleus of operative fact.

Even if § 1367(a) were satisfied, the Court should decline to exercise supplemental jurisdiction under § 1367(c). The conversion claim turns on distinct questions of state trust and escrow law that are unrelated to, and would predominate over, the federal trademark dispute, and that are more appropriately resolved in state court. 28 U.S.C. § 1367(c)(1)–(2); *Gibbs*, 383 U.S. at 726–27 (pendent jurisdiction "is a doctrine of discretion, not of plaintiff's right"); *City of Chicago v. Int'l Coll. of Surgeons*, 522 U.S. 156, 173 (1997) ("district courts can decline to exercise jurisdiction over pendent claims for a number of valid reasons").

2. Count V also fails to allege any individual conduct.

Count V alleges that a bequest was left to LPNM, is held in escrow, and is disbursed annually to LPNM, and that "Defendants" failed to transfer the funds and "have received annual distributions." Compl. ¶¶ 81–84. Conversion requires that the defendant personally exercised wrongful dominion or control over specific, identifiable property belonging to the plaintiff. *Muncey v. Eyeglass World, LLC*, 2012-NMCA-120, ¶ 22, 289 P.3d 1255. The Complaint alleges no such individualized act. The funds, by the Complaint's own allegations, run to and from LPNM, not to any individual. There is no allegation that Luchini, Burrows, McKenney, Snoy, or Wernicke personally received, possessed, or exercised control over the bequest. As with the Lanham Act counts, the conversion claim against the Individual Defendants rests entirely on the collective "Defendants" label and fails under *Iqbal*/*Twombly*.

E. Caution against personal liability for protected political-association activity reinforces dismissal.

The activity the LNC challenges, operating under a party name, soliciting contributions, endorsing candidates, and communicating with voters, is core political association and expression. Civil liability may not be imposed merely because of association with a group absent specific proof that the individual authorized, directed, or ratified unlawful conduct. *See NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 918–20 (1982) ("For liability to be imposed by reason of association alone, it is necessary to establish that the group itself possessed unlawful goals and that the individual held a specific intent to further those illegal aims. In this sensitive field, the State may not employ means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved.")

Imposing personal liability on individual party officers for an organization's political activity therefore raises serious First Amendment concerns, and precision in attributing liability to specific individuals is required before such liability may attach. Where, as here, the Complaint alleges no individualized wrongdoing and relies on collective, status-based pleading, those concerns weigh firmly against allowing the claims against the Individual Defendants to proceed.

F. The dismissal should be with prejudice.

The deficiency here is not a matter of inartful drafting. The LNC has been aware of LPNM's conduct since at least 2022 and sent cease-and-desist letters in October 2022, July 2023, September 2025, and May 2026 before filing suit in May 2026. Compl. ¶ 25. Across roughly three and a half years, the LNC investigated this dispute and then filed a Complaint that alleges no individual conduct by any of the five, and that affirmatively hedges by attributing the conduct to "Defendants or their predecessor officers." Compl. ¶ 26. If facts existed showing that a particular Individual Defendant personally adopted, directed, or used the mark, or personally converted escrow funds, the LNC was required to plead them consistent with Rule 11. Its failure to do so, against any of the five, after years of notice, indicates that no such facts exist. Amendment would be futile, and dismissal should be with prejudice. *See Brereton v. Bountiful City Corp.*, 434 F.3d 1213, 1219 (10th Cir. 2006) ("A dismissal with prejudice is appropriate where a complaint fails to state a claim under Rule 12(b)(6) and granting leave to amend would be futile.").

At a minimum, if the Court grants leave to amend, it should require the LNC to plead specific facts establishing, as to each Individual Defendant separately, that individual's personal participation in, authorization of, or direction of the allegedly infringing use of the mark, or personal control over the escrow funds. A renewed pleading resting again on title, membership, or the collective "Defendants" label would not cure the defect identified here.

VI. CONCLUSION

For the foregoing reasons, the Individual Defendants respectfully request that the Court dismiss all claims against Chris Luchini, Laura Burrows, Paul McKenney, Frederick Snoy, and James Wernicke under Rule 12(b)(6), with prejudice and further dismiss Count V under Rule 12(b)(1) for lack of subject-matter jurisdiction.

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Respectfully submitted,

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