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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

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9 Will Graven, a single man,
10 Plaintiff,

No. CV-11-00642-PHX-NVW

11 vs.

ORDER

12 Mike Martin; Dan Wallner; and Bill Emery,
13 Defendants.

14 Before the Court are “Defendant Mike Martin’s Motion to Dismiss” (Doc. 9),
15 “Defendant Dan Wallner’s Motion to Dismiss” (Doc. 10), and “Notice of Motion and
16 Motion of Bill Emery to Dismiss the Complaint Pursuant to FRCP 12(b)(1) and 12(b)(6)”
17 (Doc. 23). Because subject matter jurisdiction does not exist over Plaintiff’s complaint,
18 the Court will grant these motions.

19 **I. FACTS**

20 In 1992, the federal government decommissioned George Air Force Base, in
21 Victorville, California. 58 Fed. Reg. 58543 (1993). The runways and related facilities
22 became the Southern California Logistics Airport, which is used for commercial air
23 cargo, 64 Fed. Reg. 72642 (1999), and reputedly for transporting military units.
24 According to Plaintiff Will Graven, the Airport leases the land from the Air Force, the
25 Air Force “yet maintains a presence on, control over, and provides funds to the
26 Base/Airport,” and the FAA “also provides funds to the Airport.” (Doc. 1 ¶¶ 2–4.)

27 Plaintiff Graven is an Arizona resident and the primary shareholder of two
28 companies that did business at the Airport. Somehow, one of Graven’s companies (the

1 complaint does not specify which one) came into a possession of a pile of rubble at the
2 Airport — apparently the remains of certain demolished buildings. If crushed into
3 smaller pieces, this rubble “had significant value as high quality aggregate base material
4 [later determined to have a value of \$85,000].” (*Id.* ¶ 52 (bracketed clause in original).)
5 Graven alleges that, between May and September 2006, Defendant Martin (a Arizona
6 resident), Defendant Wallner (a California resident), and Defendant Emery (a California
7 resident) swindled Graven’s company out of this rubble through a certain scheme, the
8 details of which are not relevant to this motion to dismiss.¹

9 Graven’s companies have assigned their causes of action to him personally, and he
10 now sues those allegedly responsible for the following causes of action: (1) “Receipt of
11 Stolen Property”; (2) “Conspiracy to Commit Conversion”; (3) “Conversion”; (4)
12 “Aiding and Abetting a Conspiracy”; (5) “Intentional Interference With an Existing
13 Contract”; (6) “Various Forms of Fraud”; (7) “Forgery”; (8) “Breach of the Covenant of
14 Good Faith and Fair Dealing”; (9) “Bad Faith”; and (10) “Unjust Enrichment.”
15 Defendants have moved to dismiss. All Defendants claim lack of subject matter
16 jurisdiction. Wallner and Emery also claim other defenses, such as lack of personal
17 jurisdiction (alleging lack of minimum contacts with Arizona) and *res judicata* (based on
18 now-dismissed bankruptcy proceedings relating Graven and/or his companies).

19 **II. LEGAL STANDARD**

20 Federal courts are courts of limited jurisdiction. Generally speaking (and as
21 relevant to this case), federal courts may only hear “civil actions arising under the
22 Constitution, laws, or treaties of the United States,” 28 U.S.C. § 1331, or “civil actions
23 where the matter in controversy exceeds the sum or value of \$75,000 . . . between . . .
24 citizens of different States,” *id.* § 1332(a)(1).

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26
27 ¹ Declarations and proofs of service establish Defendants’ respective residencies.
28 (*See* Docs. 23–26.)

