




42 U.S.C. § 1983 (emphasis added). “To state a claim for relief in an action brought under § 1983, [a plaintiff] must establish [1] that [he was] deprived of a right secured by the Constitution or laws of the United States, and [2] that the alleged deprivation was committed under color of state law.” *Yelverton v. Smith*, No. 1:15-CV-0552, 2017 WL 6271266, at \*2 (D.D.C. Feb. 14, 2017) (quoting *Am. Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40, 49–50 (1999)). For purposes of this Memorandum Opinion, the Court presumes without deciding that the plaintiff has been deprived of constitutionally-protected rights. The fatal defect of the plaintiff’s complaint is its failure to allege that any of the named defendants acted “under color of” State or District of Columbia law.

“The traditional definition of acting under color of state law requires that the defendant in a § 1983 action have exercised power ‘possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law.’” *West v. Atkins*, 487 U.S. 42, 49 (1988) (quoting *United States v. Classic*, 313 U.S. 299, 326 (1941)). No factual allegations of the plaintiff’s complaint suggest that these defendants, for example, performed an official duty pursuant to State or District of Columbia authority. Here, a bank loaned money to businesses which failed to repay the loans, and legal action ensued. This is private activity, and “the under-color-of-state-law element of § 1983 excludes from its reach ‘merely private conduct, no matter how discriminatory or wrongful[.]’” *Am. Mfrs. Mut. Ins. Co.* 526 U.S. at 50 (quoting *Blum v. Yaretsky*, 457 U.S. 991, 1002 (1982) (additional citation and footnote omitted)).

The Court concludes that the complaint fails to state a § 1983 claim. Accordingly, the Court will grant the plaintiff's application to proceed *in forma pauperis* and dismiss the complaint without prejudice. An Order is issued separately.

DATE: March 6, 2020

  
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TREVOR N. McFADDEN  
United States District Judge