

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

TRACY JEANETTE COZATT,)
Plaintiff,)
v.) No. 1:22-cv-01809-JPH-MPB
JOHN A. KASSIS,)
Defendant.)

ORDER

Tracy Cozatt filed a *pro se* complaint against John Kassis, asserting that her constitutional rights were violated in a divorce and custody dispute. Dkt.

1. Ms. Cozatt has also filed a motion to proceed *in forma pauperis*, dkt. [2], which is **granted**. However, Ms. Cozatt's complaint fails to state a claim upon which relief may be granted and must be **dismissed**. *See* dkt. 1.

I.
Filing Fee

Ms. Cozatt's motion to proceed *in forma pauperis* is **GRANTED**. Dkt. [2]. See 28 U.S.C. § 1915(a). While *in forma pauperis* status allows Ms. Cozatt to proceed without prepaying the filing fee, she remains liable for the full fees. *Ross v. Roman Catholic Archdiocese of Chicago*, 748 F. App'x 64, 65 (7th Cir. Jan. 15, 2019) ("Under 28 U.S.C. § 1915(a), a district court may allow a litigant to proceed 'without prepayment of fees,' . . . but not without *ever* paying fees."). No payment is due at this time.

II. Screening

A. Screening standard

The Court has the inherent authority to screen Ms. Cozatt's complaint.

Rowe v. Shake, 196 F.3d 778, 783 (7th Cir. 1999) ("[D]istrict courts have the power to screen complaints filed by all litigants, prisoners and non-prisoners alike, regardless of fee status."). The Court may dismiss claims within a complaint that fail to state a claim upon which relief may be granted. *See id.* In determining whether the complaint states a claim, the Court applies the same standard as when addressing a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). *See Cesal v. Moats*, 851 F.3d 714, 720 (7th Cir. 2017). To survive dismissal,

[the] complaint must contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible on its face. A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.

Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). *Pro se* complaints are construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers. *Perez v. Fenoglio*, 792 F.3d 768, 776 (7th Cir. 2015).

B. The complaint

Ms. Cozatt brings this claim under 42 U.S.C. § 1983, alleging that Mr. Kassis violated the Eighth and Fourteenth Amendments of the U.S. Constitution. Dkt. 1 at 2. She also appears to allege state-law malpractice and defamation claims. *Id.* Ms. Cozatt states that Mr. Kassis, her spouse's divorce

lawyer, led vexatious litigation, caused a false arrest, and failed to adequately protect her child. *Id.* Mr. Kassis allegedly colluded with Ms. Cozatt's attorney, leading to her loss of custody of her son. *Id.* at 5. For these claims, Ms. Cozatt seeks \$80,000 in damages, a published retraction of defamation, and the return of her son. *Id.* at 3–4.

To state a claim under § 1983, a plaintiff must allege the violation of a right secured by the Constitution or laws of the United States and must show that the alleged deprivation was committed by a person acting under color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988). Generally, "a private attorney, while participating in the trial of private state court action, is not acting under color of state law." *Hansen v. Ahlgrimm*, 520 F.2d 768, 770 (7th Cir. 1975) (holding that a private divorce attorney was not acting under color of state law). The only exception is if a private attorney was "engaged in a conspiracy with state officials to deprive another of federal rights." *Campos v. Cook Cnty.*, 932 F.3d 972, 978 (7th Cir. 2019) (quoting *Tower v. Glover*, 467 U.S. 914, 920 (1984)).

Here, Ms. Cozatt brings a claim under § 1983 against a private attorney, but does not allege that he was acting under color of state law, *see Hansen*, 520 F.2d at 770, or that he was "engaged in a conspiracy with state officials" to deprive her of federal rights, *see Campos*, 932 F.2d at 978. Therefore, the

complaint fails to state a claim for relief, and this action against Mr. Kassis must be **dismissed**.¹

III.
Conclusion

For the reasons stated above, Ms. Cozatt's request to proceed *in forma pauperis*, dkt. [2], is **GRANTED**. However, after screening the complaint, the Court determines that it must **DISMISS** the complaint for failure to state a claim. Ms. Cozatt has **until October 17, 2022, to show cause** why judgment consistent with this order should not issue.

SO ORDERED.

Date: 9/16/2022

James Patrick Hanlon

James Patrick Hanlon
United States District Judge
Southern District of Indiana

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¹ Since Ms. Cozatt's § 1983 claim is being dismissed, her state-law claims of malpractice and defamation must be dismissed as well. See 28 U.S.C. § 1337(a) (only providing supplemental jurisdiction when courts have original jurisdiction over the action). Those state-law claims will be **dismissed without prejudice**, so they may be raised in state court.