

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Civil Minutes

Date: November 29, 2018

Judge: Hon. James Donato

Time: 14 Minutes

Case No. **C-18-01382-JD**

Case Name **Faasse et al v. Coinbase, Inc.**

Attorney(s) for Plaintiff(s): Jeremy Nash/William R. Restis

Attorney(s) for Defendant(s): Eric J. Knapp/Elliott J. Joh

Deputy Clerk: Lisa R. Clark

Court Reporter: Ana Dub

PROCEEDINGS

Motion to Dismiss – Held

NOTES AND ORDERS

The motion to dismiss, Dkt. No. 31, is denied in a bench ruling for the reasons summarized below for the parties' convenience. There will be no further written order.

For defendant's arguments under Federal Rule of Civil Procedure 12(b)(1), the Court finds that defendant's factual arguments about plaintiffs' ownership rights in the Bitcoins are inextricably intertwined with the merits questions, and so the issue is dismissed with the possibility of being renewed later, if warranted. *See Patel v. Facebook Inc.*, 290 F. Supp. 3d 948, 951-52 (N.D. Cal. 2018) ("A jurisdictional finding of genuinely disputed facts is inappropriate when the jurisdictional issue and substantive issues are so intertwined that the question of jurisdiction is dependent on the resolution of factual issues going to the merits of an action.") (internal quotations omitted).

For defendant's 12(b)(6) arguments:

- Defendant's motion to dismiss plaintiffs' resulting trust and constructive trust claims is denied. Plaintiffs have plausibly stated a claim against defendant for the Bitcoin that allegedly belongs to them and that is enough to keep these claims in the case. *See Fidelity Nat'l Title Ins. Co. v. Schroeder*, 179 Cal. App. 4th 834, 850 (2009); *Lloyds Bank California v. Wells Fargo Bank*, 187 Cal. App. 3d 1038, 1042 (1986).

- Defendant’s motion to dismiss plaintiffs’ conversion claim is denied, as the dismissal request was largely premised on defendant’s rejected 12(b)(1) argument that plaintiffs have no ownership or right of possession of the Bitcoin at issue.
- Defendant’s motion to dismiss plaintiffs’ UCL claim is denied. The “unlawful” claim can go forward on the basis of the conversion claim, which the Court is permitting to go forward. The Court clarifies in this minute order that the “unlawful” claim can additionally go forward on the basis of the Unclaimed Property Law, Cal. Civ. Code § 1500, as alleged in plaintiffs’ complaint. Dkt. No. 30 ¶¶ 66-75. Defendant has not established that the UPL cannot be a proper basis for a UCL “unlawful” claim. *See* Dkt. No. 31 at 10-11 (relying on cases discussing the tax code rather than the UPL); Dkt. No. 33 at 8 (quoting statutory language providing that the State Controller “may” bring an action to enforce the UPL, not that the State Controller has exclusive enforcement authority). Plaintiffs’ “unfair” prong claim may also go forward for the reasons stated on the record. *See Norcia v. Samsung Telecommunications America, LLC*, No. 14-cv-582-JD, 2018 WL 4772302, at *2 (N.D. Cal. 2018).
- Defendant’s motion to dismiss plaintiffs’ negligence claim is granted with leave to amend by **December 20, 2018**. Plaintiffs’ complaint currently describes only a duty Coinbase owed to its users, and fails to sufficiently allege the basis and nature of any duty defendant may have owed to plaintiffs, who were not Coinbase users.
- Defendant’s motion to dismiss plaintiffs’ declaratory relief claim is denied. The Court has already denied defendant’s Article III standing argument, and the duplicative nature of this claim, even if true, is not sufficient grounds for dismissing it at this juncture.

The parties are additionally directed to meet and confer and submit a jointly proposed case schedule. The Court may then issue a scheduling order based on the parties’ submission without need for a case management conference.