

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 19th day of October, two thousand twenty-six.

PRESENT:

ALISON J. NATHAN,
SARAH A. L. MERRIAM,
MATTHEW A. SCHWARTZ,
Circuit Judges.

Rejeanne M. Bernier, Hans S. Croteau,

Plaintiffs-Appellants,

v.

25-2888

Travelers Property Casualty Insurance
Company, a Minnesota Corporation,

Defendant-Appellee.

FOR PLAINTIFFS-APPELLANTS:

Rejeanne M. Bernier, Hans
S. Croteau, *pro se*, San
Diego, CA.

FOR DEFENDANT-APPELLEE:

Logan A. Carducci, Usery
& Associates LLC,
Hartford, CT.

Appeal from a judgment and order of the United States District Court for the District of Connecticut (Victor A. Bolden, *Judge*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment and October 9, 2025 order of the District Court are **AFFIRMED**.

Rejeanne M. Bernier and her adult son, Hans S. Croteau, proceeding *pro se*, appeal from the District Court's judgment dismissing their 42 U.S.C. § 1983 and *Bivens* claims against Travelers Property Casualty Insurance Company (Travelers) and from the District Court's subsequent denial of reconsideration. On appeal, Bernier and Croteau principally argue that the District Court erred in dismissing their claims as time-barred and for failure to state a claim. We assume the parties' familiarity with the underlying facts and procedural history, to which we refer only as necessary to explain our decision to affirm.

This Court reviews *de novo* a district court's dismissal of a complaint under Rule 12(b)(6). *Moreira v. Société Générale, S.A.*, 125 F.4th 371, 387 (2d Cir. 2025). In so

doing, we take the complaint's factual allegations as true and draw all reasonable inferences in favor of the plaintiffs. *Id.* “[W]hen the denial of leave to amend is based on a legal interpretation, such as a determination that amendment would be futile, a reviewing court conducts a de novo review.” *Smith v. Hogan*, 794 F.3d 249, 253 (2d Cir. 2015) (citation modified). “We generally review motions for reconsideration under an ‘abuse of discretion’ standard.” *L-7 Designs, Inc. v. Old Navy, LLC*, 647 F.3d 419, 435 (2d Cir. 2011). Since the plaintiffs “ha[ve] been *pro se* throughout, [their] pleadings and other filings are interpreted to raise the strongest claims they suggest.” *Sharikov v. Philips Med. Sys. MR, Inc.*, 103 F.4th 159, 166 (2d Cir. 2024).

The District Court properly dismissed the amended complaint. First, it correctly concluded that the amended complaint failed to state a § 1983 conspiracy claim. “To state a claim against a private entity on a section 1983 conspiracy theory, the complaint must allege facts demonstrating that the private entity acted in concert with the state actor to commit an unconstitutional act,” meaning they were “a willful participant in joint activity with the State or its agents.” *Ciambriello v. Cnty. of Nassau*, 292 F.3d 307, 324 (2d Cir. 2002) (citation modified). “A private actor can only be a willful participant in joint activity with the State or its agents if the two share some common goal to violate the plaintiff[s'] rights.” *Betts v. Shearman*, 751 F.3d 78, 85 (2d Cir. 2014) (citation modified).

Allegations of conspiracy that are merely conclusory may not survive a motion to dismiss. *Ciambriello*, 292 F.3d at 324.

Here, the District Court was correct that the plaintiffs' allegations cannot sustain a claim for civil conspiracy. Bernier and Croteau alleged that Travelers "weaponized" a California state court order labeling them "vexatious litigants" and "file[d] numerous motions to obstruct Plaintiffs' access to courts, agencies and law enforcement, effectively barring them from pursuing legal rights." App'x at 7–10. They asserted that Travelers conspired with judges to achieve this goal. *Id.* at 7, 10–12. But, as the District Court observed, merely prevailing in judicial proceedings does not transform Travelers into a state actor or co-conspirator. *Bernier v. Travelers Prop. Cas. Ins. Co.*, 24-CV-1061 (VAB), 2025 WL 2379310, at *18 n.3 (D. Conn. Aug. 15, 2025) (citing *Dennis v. Sparks*, 449 U.S. 24, 28 (1980)). And although the amended complaint also mentioned several prosecutors, it did not explain their roles, if any, in the alleged Travelers conspiracy.

In short, Bernier and Croteau's allegations of a conspiracy were insufficient and conclusory. *See Ciambriello*, 292 F.3d at 324. Accordingly, the District Court properly determined that the amended complaint did not plausibly allege that Travelers conspired with state actors to deprive the plaintiffs of their constitutional rights.

The District Court was also correct that the amended complaint failed to state a *Bivens* claim. Although, on appeal, Bernier and Croteau only mention this claim in

passing, we briefly address it for clarity. In *Bivens*, the Supreme Court recognized an implied private action against federal officers for certain constitutional violations. *Bivens v. Six Unknown Named Agents*, 403 U.S. 388, 389 (1971). But *Bivens* does not provide a cause of action against private entities. See *Corr. Servs. Corp. v. Malesko*, 534 U.S. 61, 66 (2001). Accordingly, a claim against Travelers cannot be brought under *Bivens*.

As Bernier and Croteau plainly fail to state a claim under § 1983 or *Bivens*, we need not reach whether those claims, if otherwise viable, would be time-barred.

We also affirm the District Court's denial of further leave to amend. "A *pro se* complaint should not be dismissed without the Court granting leave to amend at least once when a liberal reading of the complaint gives any indication that a valid claim might be stated." *Chavis v. Chappius*, 618 F.3d 162, 170 (2d Cir. 2010) (citation modified). But "a futile request to replead should be denied." *Cuoco v. Moritsugu*, 222 F.3d 99, 112 (2d Cir. 2000). Here, even after an opportunity to amend their complaint, Bernier and Croteau failed to state a plausible § 1983 or *Bivens* claim. And they provided no basis, either in the District Court or on appeal, to conclude that they could do so if granted further leave to amend.

Finally, the District Court did not abuse its discretion in denying reconsideration. The standard for granting a motion for reconsideration "is strict, and reconsideration will

generally be denied unless the moving party can point to controlling decisions or data that the court overlooked—matters, in other words, that might reasonably be expected to alter the conclusion reached by the court.” *Shrader v. CSX Transp., Inc.*, 70 F.3d 255, 257 (2d Cir. 1995). Bernier and Croteau identified no such matters here.

CONCLUSION

We have considered Bernier and Croteau’s remaining arguments and conclude that they are without merit. Accordingly, we **AFFIRM** the judgment and October 9, 2025 order of the District Court.

FOR THE COURT:

Catherine O’Hagan Wolfe, Clerk of Court