

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

PONCE D. HOWARD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO. 2:16-CV-230-WKW
	)	[WO]
HYUNDAI MOTOR	)	
MANUFACTURING ALABAMA,	)	
	)	
Defendant.	)	

**ORDER**

On November 3, 2016, the Magistrate Judge filed a Recommendation to which no timely objections have been filed. (Doc. # 33.) Although the recommendation is due to be ADOPTED, further elaboration is required.

Defendant argues that the Amended Complaint (Doc. # 25) does not contain facts sufficient to make out the elements of a prima facie discrimination claim based on *McDonnell Douglas*, relying in part on the proposition that to be successful Plaintiff’s allegations must “speak to *each and every one*” of the elements. (Doc. # 28, at 4.) But this is a misstatement of the law. Contrary to Defendant’s argument, a plaintiff need not plead each and every one of the elements of *McDonnell Douglas* to avoid dismissal. *See Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 515 (2002) (“[W]e hold that an employment discrimination plaintiff need not plead a prima facie

case of discrimination . . . to survive respondent’s motion to dismiss”); *Davis v. Coca-Cola Bottling Co. Consol.*, 516 F.3d 955, 974 (11th Cir. 2008) (“[A] Title VII complaint need not allege facts sufficient to make out a classic *McDonnell Douglas* prima facie case.”), *abrogated on other grounds by Ashcroft v. Iqbal*, 556 U.S. 662 (2009). Thus, as long as Plaintiff has pleaded “enough factual matter (taken as true) to suggest” intentional race discrimination, *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 556 (2007), specifically alleging each element is not necessary. For this reason and for those already articulated in the Recommendation, the court—having independently reviewed the Amended Complaint—finds that Plaintiff has alleged facts sufficient to survive Defendant’s motion to dismiss for failure to state a claim. It is ORDERED that the Recommendation is ADOPTED, and Defendant’s motion to dismiss (Doc. # 28) is DENIED.

This action is REFERRED back to the Magistrate Judge for further proceedings.

DONE this 30th day of November, 2016.

/s/ W. Keith Watkins  
CHIEF UNITED STATES DISTRICT JUDGE