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

SHASMAN WALLACE)
Plaintiff,)
vs.) CIV. ACT. NO. 2:21-cv-213-TFM-C
DEAN WILSON FARM, LLC, and)
TRAVIS WILSON,)
Defendants.)

MEMORANDUM OPINION AND ORDER

On October 26, 2021, the Magistrate Judge entered a Report and Recommendation which recommends *Defendants' Motion to Dismiss Amended Complaint* (Doc. 12) be denied. *See* Doc. 26. Defendants timely filed objections to which Plaintiff timely replied. *See* Docs. 28, 29. As such, the matter is ripe for review.

Rule 12(b)(6) of the Federal Rules of Civil Procedure authorizes a motion to dismiss an action on the ground that the allegations in the complaint fail to state a claim upon which relief can be granted. On such a motion, the "issue is not whether a plaintiff will ultimately prevail but whether the claimant is entitled to offer evidence to support the claims." *Little v. City of N. Miami*, 805 F.2d 962, 965 (11th Cir. 1986) (per curiam) (quoting *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974)). "When considering a motion to dismiss, all facts set forth in the plaintiff's complaint 'are to be accepted as true and the court limits its consideration to the pleadings and exhibits attached thereto." *Grossman v. Nationsbank, N.A.*, 225 F.3d 1228, 1231 (11th Cir. 2000) (per curiam) (quoting *GSW, Inc. v. Long Cnty.*, 999 F.2d 1508, 1510 (11th Cir. 1993)). The court must draw "all reasonable inferences in the plaintiff's favor." *St. George v. Pinellas Cnty.*, 285 F.3d 1334, 1337 (11th Cir. 2002).

However, the court is not required to accept a plaintiff's legal conclusions. *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S. Ct. 1937, 1950, 173 L. Ed 868 (2009). The U.S. Supreme Court has suggested that courts adopt a "two-pronged approach" when considering motions to dismiss: "1) eliminate any allegations in the complaint that are merely legal conclusions; and 2) where there are well-pleaded factual allegations, 'assume their veracity and then determine whether they plausibly give rise to an entitlement to relief." *Am. Dental Ass'n v. Cigna Corp.*, 605 F.3d 1283, 1290 (11th Cir. 2010) (quoting *Iqbal*, 556 U.S. at 679, 129 S. Ct. at 1950). Importantly, "courts may infer from the factual allegations in the complaint 'obvious alternative explanation[s],' which suggest lawful conduct rather than the unlawful conduct the plaintiff would ask the court to infer." *Id.* (quoting *Iqbal*, 556 U.S. at 682, 129 S. Ct. at 1951-52).

Rule 12(b)(6) is read in consideration of Federal Rule of Civil Procedure 8(a)(2), which requires "a short and plain statement of the claim showing that the pleader is entitled to relief,' in order to 'give the defendant fair notice of what the . . . claim is and the grounds upon which it rests." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 127 S. Ct. 1955, 1964, 167 L. Ed. 2d 929 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47, 78 S. Ct. 99, 2 L. Ed. 2d 80 (1957)). Although Rule 8 does not require detailed factual allegations, it does demand "more than an unadorned, the-defendant-unlawfully-harmed-me accusation." *Iqbal*, 556 U.S. at 678, 129 S. Ct. at 1949. To survive a motion to dismiss, a complaint must state on its face a plausible claim for relief, and "[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." *Id.* Unless the plaintiffs have "nudged their claims across the line from conceivable to plausible, their complaint must be dismissed." *Twombly*, 550 U.S. at 570, 127 S. Ct. at 1974. "The plausibility standard is not akin to a 'probability requirement,' but it asks for more than a sheer possibility that a defendant

has acted unlawfully." Iqbal, 556 U.S at 678, 129 S. Ct. at 1949 (quoting Twombly, 550 U.S at

556, 127 S. Ct. at 1965).

Having reviewed the objections, the undersigned finds that they do not offset the well-

reasoned analysis of the Magistrate Judge. The Court notes that the cases relied upon by the

Defendants in their objections were all analyzed under the auspices of a motion for summary

judgment, or in one case, a bench trial. The posture of this case is at the point of a motion to

dismiss brought under Fed. R. Civ. P. 12(b)(6). See Doc. 12 at 4. The Court's review is narrowly

confined to the amended complaint while a summary judgment presents a far broader review.

Thus, applying the appropriate standard of review, Defendants' objections are **OVERRULED**.

After due and proper consideration of the issues raised, and a de novo determination of

those portions of the recommendation to which objection is made, the recommendation of the

Magistrate Judge (Doc. 26) is **ADOPTED** as the opinion of this Court. Accordingly, *Defendants*'

Motion to Dismiss Amended Complaint (Doc. 12) is **DENIED**.

DONE and **ORDERED** this 17th day of November, 2021.

/s/Terry F. Moorer TERRY F. MOORER

UNITED STATES DISTRICT JUDGE

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