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**United States District Court
Central District of California**

PLUTOS SAMA HOLDINGS, INC.,
Plaintiffs,
v.
TORTSEN MAEHLE et al.,
Defendants.

Case № 8:19-CV-01010-ODW (AGRx)

**ORDER GRANTING
MOTION TO DISMISS [35]**

I. INTRODUCTION

Before the Court is Defendant Torsten Maehle’s Motion to Dismiss (“Motion”) Plaintiff Plutos Sama Holdings, Inc.’s (“Plutos”) Complaint. (Mot. to Dismiss (“Mot.”), ECF No. 35.) For the following reasons, the Court **GRANTS** Maehle’s Motion.¹

II. FACTUAL BACKGROUND

Plutos is a holding company with interests across a wide array of industries, including retail consumer markets. (Compl. ¶ 22, ECF No. 1.) Plutos initiated this civil action against Torsten Maehle, Jurg Widmer, Alejandro Widmer, and Clemens Gregor (collectively, the “Widmer Enterprise”), and three other individual

¹ Having carefully considered the papers filed in connection with the Motion, the Court deemed the matter appropriate for decision without oral argument. Fed. R. Civ. P. 78; C.D. Cal. L.R. 7-15.

1 defendants—Carlos Politano, Endre Szabari, and Michael Beilenson (collectively,
2 “Defendants”). (Compl. at 2.) Plutos alleges that Defendants engaged in an
3 aggressive and coordinated attack intended to interfere with Plutos’s acquisition and
4 operation of restaurants. (Compl. at 3.) Specifically, Defendants “engaged in a
5 coordinated effort to launder J. Widmer’s ill-gotten gains through the Doral
6 Restaurant” (“Doral”). (Comp. at 2.) Plutos also asserts that Defendants’ actions
7 caused substantial financial harm to its restaurants and jeopardized its larger
8 transaction involving franchise development rights. (Compl. at 3.)

9 Plutos alleges that Defendant Maehle, a Florida resident, was a close friend of
10 Alejandro Widmer and former equity-holder of VAP Sunshine—a Florida limited
11 liability company—which owns a 60% share in Doral. (Compl. ¶ 5.)

12 To achieve its goal of expanding a restaurant franchise in the U.S., Plutos
13 sought to acquire existing franchised restaurants from their majority owner, VAP
14 Sunshine. (Compl. ¶ 23.) Plutos contends that at the time of contemplating these
15 transactions, Plutos was unaware that Doral was funded by a control-seeking,
16 international money-laundering scheme. (Compl. ¶ 24.) Plutos alleges that Maehle
17 knowingly served as Doral’s front-man to disguise the funding source of the scheme,
18 which allegedly was Jurg Widmer’s profits from a Guatemalan bribery scandal.
19 (Compl. ¶¶ 24–27.)

20 The Widmer Enterprise allegedly employed the following three methods to
21 interfere with Plutos’s acquisition and operation of the franchise restaurants, including
22 Doral: (1) initiated an abusive and harassing legal attack against Plutos; (2) assaulted
23 Plutos’s operation of the restaurants; and (3) ran a defamation campaign against
24 Plutos.² (Compl. ¶¶ 39, 43.)

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27 ² Plutos alleges that Maehle and the rest of the Widmer Enterprise filed numerous harassing lawsuits,
28 which drained Plutos’s resources and caused it financial harm. (Compl. ¶¶ 43(i), 46.) Plutos also
alleges that on March 28, 2019, the Widmer Enterprise unlawfully took over Doral’s physical
operations for one day and diverted all Doral’s revenue to the Widmer Enterprise. (Compl. ¶ 43(g).)

1 Based on these allegations, Plutos asserts four causes of action against Maehle:
2 (1) violation of Federal Civil Racketeer Influenced and Corrupt Organizations
3 (“RICO”); (2) conspiracy to violate Federal Civil RICO; (3) civil extortion; and (4)
4 civil conspiracy.³ (Compl. ¶¶ 49–72, 74–78, 82–85, 100–105.) Maehle now moves to
5 dismiss Plutos’s Complaint for a lack of personal jurisdiction, improper venue,
6 impermissible shotgun pleading, and failure to state a claim. (Mot. 7.).

7 III. LEGAL STANDARD

8 A court may dismiss a complaint under Rule 12(b)(6) for lack of a cognizable
9 legal theory or insufficient facts pleaded to support an otherwise cognizable legal
10 theory. *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1988). To
11 survive a dismissal motion, a complaint need only satisfy the minimal notice pleading
12 requirements of Rule 8(a)(2)—a short and plain statement of the claim. *Porter v.*
13 *Jones*, 319 F.3d 483, 494 (9th Cir. 2003). The factual “allegations must be enough to
14 raise a right to relief above the speculative level.” *Bell Atl. Corp. v. Twombly*, 550
15 U.S. 544, 555 (2007). That is, the complaint must “contain sufficient factual matter,
16 accepted as true, to state a claim to relief that is plausible on its face.” *Ashcroft v.*
17 *Iqbal*, 556 U.S. 662, 678 (2009) (internal quotation marks omitted).

18 The determination of whether a complaint satisfies the plausibility standard is a
19 “context-specific task that requires the reviewing court to draw on its judicial
20 experience and common sense.” *Id.* at 679. A court is generally limited to the
21 pleadings and must construe all “factual allegations set forth in the complaint . . . as
22 true and . . . in the light most favorable” to the plaintiff. *Lee v. City of Los Angeles*,
23 250 F.3d 668, 679 (9th Cir. 2001). However, a court need not blindly accept
24 conclusory allegations, unwarranted deductions of fact, and unreasonable inferences.
25 *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir. 2001).

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28 ³ The Motion mistakenly states that Maehle is named in five of the six causes of action in Plutos’s
Complaint. (Mot. 7.)

1 If there is no personal jurisdiction per section 1965(b), then the court can assess
2 whether there is a traditional basis for personal jurisdiction under California’s long-
3 arm statute. To establish personal jurisdiction the plaintiff needs to allege and
4 eventually prove that the RICO action arose out of sufficient minimum contacts with
5 California or that the defendants’ activities were so continuous and systematic to
6 render them “present” in California for service of process. *See Butcher’s*, 788 F.2d at
7 540. Further, once a defendant has challenged the exercise of personal jurisdiction,
8 the plaintiff bears the burden of showing that the court has jurisdiction. *Id.* at 538.

9 Here, Plutos initially asserted that this Court had personal jurisdiction
10 exclusively under section 1965(b), then in the Opposition claimed that no other
11 district court has personal jurisdiction over all the alleged co-conspirators.⁴ (Compl. ¶
12 3; Opp’n 7.) The only apparent connection to California in this alleged conspiracy is
13 that Plutos is a Delaware corporation based in California. None of the defendants
14 reside in California and Plutos failed to allege that any of the complained conduct took
15 place in California. (*See generally* Compl.) The alleged conspiracy centers around
16 Florida restaurants and the Defendants’ attempts to launder money through those
17 entities. (*See* Compl. ¶¶ 22–48.) Plutos failed to make specific allegations to identify
18 a multidistrict conspiracy warranting the exercise of personal jurisdiction under
19 section 1965(b) and did not allege that the nonresident Defendants had sufficient
20 contacts with the forum state to justify personal jurisdiction. Therefore, the Court
21 **GRANTS** Maehle’s motion to dismiss for lack of personal jurisdiction and need not
22 reach the other bases upon which Maehle sought to dismiss Plutos’s Complaint.

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⁴ In the Reply, Maehle urges the Court to ignore Plutos’s Opposition on the basis that it was filed
27 one day late. (Reply to Opp’n 1–2, ECF No. 40.) If the reason for Plutos’s tardiness was due to
28 Maehle’s failure to meet and confer, then the Court would have no other recourse but to deny the
Motion without prejudice and allow the parties to properly brief. For the limited purpose of deciding
this Motion, the Court will consider the papers both parties submitted.

1 **B. Request for Jurisdictional Discovery**

2 If the court is inclined to dismiss the case for lack of personal jurisdiction,
3 Plutos requests jurisdictional discovery to demonstrate that “Maehle participated in a
4 conspiracy to defraud a California-based entity.” (Opp. 8.) A district court has broad
5 discretion to permit or deny discovery. *Data Disc, Inc. v. Sys. Tech. Assocs., Inc.*, 557
6 F.2d 1280, 1285 n. 1 (9th Cir. 1977). Discovery should ordinarily be granted where
7 “pertinent facts bearing on the question of jurisdiction are controverted or where a
8 more satisfactory showing of the facts is necessary.” *Id.* However, a mere belief that
9 further discovery will enable a plaintiff to demonstrate sufficient contacts between
10 defendant and California is insufficient to justify a grant of discovery. *Butcher’s*, 788
11 F.2d at 540. Here, simply because Plutos was based in California when the alleged
12 conspiracy unfolded in the Florida does not serve as grounds for this Court to grant
13 jurisdictional discovery. Accordingly, the Court **DENIES** Plutos’s request for
14 jurisdictional discovery.

15 **V. CONCLUSION**

16 For the reasons discussed above, the Court **GRANTS** Defendant Maehle’s
17 Motion to Dismiss, and **GRANTS** Plaintiff leave to amend to address the personal
18 jurisdiction deficiencies. (ECF No. 35).

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20 **IT IS SO ORDERED.**

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22 April 15, 2020



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25 **OTIS D. WRIGHT, II**
26 **UNITED STATES DISTRICT JUDGE**
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