

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

MICHAEL DEMOND STUBBS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. No. 08-108-SLR
	)	
BANK OF AMERICA CORPORATION,	)	
et al.,	)	
	)	
Defendants.	)	

**ORDER**

At Wilmington this 29<sup>th</sup> day of July, 2011, having reviewed the Report and Recommendation issued on February 23, 2010 by United States Magistrate Judge Leonard P. Stark,<sup>1</sup> as well as the responses thereto, including the objections filed by plaintiff and defendants Bank of America, N.A. ("Bank of America") and Kenneth D. Lewis ("Lewis") (together "defendants");

IT IS ORDERED that:

1. The Report and Recommendation (D.I. 45) is accepted and objections overruled.
2. In defendants' objection, they assert that the mere listing of unlawful conversion, wrongful dishonor of a financial instrument, and enforcement of the lien fails to comply with the notice pleading standards required by Fed. R. Civ. P. 8(a) pursuant to Fed. R. Civ. P. 12(b)(6). They further assert that the amended complaint is devoid of a single factual allegation or claim pertaining to Lewis, other than identifying

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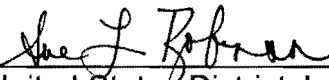
<sup>1</sup>Judge Stark is now a United States District Judge.

him as the chief executive officer of Bank of America. The court agrees with the conclusion that, when liberally construing the facts, as the court must for a pro se plaintiff, and considering the attachments to the complaint, plaintiff satisfies the pleading requirements of Fed. R. Civ. P. 8(a). As stated, correctly, in the Report and Recommendation, some of plaintiff's claims are discernible and, although a substantial portion of the collection of facts, rhetoric, and citations in the amended complaint are legally irrelevant, enough factual allegations are presented that place defendants on notice of the claims of unlawful conversion and wrongful dishonor of a financial instrument. In addition, the Report and Recommendation correctly stated that attachments to the amended complaint provide defendants notice of plaintiff's claim for enforcement of the lien against Bank of America.

3. In his objection, plaintiff asserts that the claims of fraud, misrepresentation, and interference with prospective economic advantage claim should not be dismissed. The court agrees that, with regard to the fraud claim, the amended complaint fails to meet the pleading requirements of Fed. R. Civ. P. 9(b). As stated, correctly, in the Report and Recommendation, even when considering plaintiff's pro se status, the amended complaint fails to allege a particular person who committed fraud or made a misrepresentation. Nor does it allege a culpable state of mind on the part of alleged perpetrators. The Report and Recommendation also correctly states that the litany of the remaining claims fails to provide defendants with fair notice of the grounds upon which they rest as required by Fed. R. Civ. P. 8(a).

4. Defendants' renewed motion to dismiss (D.I. 39) is granted in part and denied in part. The motion is denied with respect to claims for unlawful conversion, wrongful

dishonor of a financial instrument, and enforcement of a lien. All other claims are dismissed.

  
United States District Judge