

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

BENJAMIN JUREC,

Plaintiff,

v.

Case No. 3:18-cv-591-J-32JRK

WALTER P. RAWL & SONS, INC.,
a Foreign Profit Corporation,

Defendant.

ORDER

This case is before the Court on the Defendant Walter P. Rawl & Sons, Inc.'s Motion to Dismiss Amended Complaint, and Additional Motion to Strike (Doc. 31). On January 29, 2019, the assigned United States Magistrate Judge issued a Report and Recommendation (Doc. 39) recommending that the Motion be granted in part and denied in part. Specifically, he recommended that the Motion be granted to the extent that Count II of the First Amended Complaint (Doc. 30) be dismissed without prejudice, with leave to amend, and should otherwise be denied. No party has filed an objection to the Report and Recommendation, and the time in which to do so has passed. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); M.D. Fla. R. 6.02(a).

Upon de novo review and for the reasons stated in the Report and Recommendation (Doc. 39), it is hereby

ORDERED:

1. The Report and Recommendation of the Magistrate Judge (Doc. 39) is **ADOPTED** as the opinion of the Court.

2. Defendant Walter P. Rawl & Sons, Inc.'s Motion to Dismiss Amended Complaint, and Additional Motion to Strike (Doc. 31) is **GRANTED IN PART DENIED IN PART**.

3. The Motion is **GRANTED** to the extent that Count II of the First Amended Complaint (Doc. 30) is **dismissed without prejudice**, with leave to amend.

4. The Motion is otherwise **DENIED**.

5. If he is so inclined, Plaintiff shall file a second amended complaint repleading Count II by **March 25, 2019**.

6. Defendant shall respond to the second amended complaint by **April 12, 2019**.

7. A telephone status hearing is set for **March 12, 2019 at 2:00 p.m.**¹ Because the Court will discuss case scheduling, Defendant need not file a

¹ The parties are directed to call the reserved conference line toll free at **1-888-684-8852**. The access code for all participants is **2594705**. The participants will then be prompted to enter the **participant security code: 18591**, followed by the **#** (pound) key. This conference line will be activated at

written response to Plaintiff's First Opposed Motion to Extend Deadline for Plaintiff's Expert Report Disclosure and Certain Discovery Deadlines. (Doc. 40).

DONE AND ORDERED in Jacksonville, Florida the 4th day of March, 2019.



TIMOTHY J. CORRIGAN
United States District Judge

sej
Copies to:

Honorable James R. Klindt
United States Magistrate Judge

Counsel of record

1:50 p.m. so the hearing may start promptly at 2:00 p.m.