

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

COLL BUILDERS SUPPLY, INC.,

Plaintiff,

v.

Case No: 6:17-cv-933-Orl-40DCI

ROBERT J. VELEZ, ROSALY MENDEZ
RODRIGUEZ and APEX TOOL &
FASTENERS, INC.,

Defendants.

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ORDER

This cause is before the Court on Defendant's Apex Tool & Fastener, Inc.'s Motion to Dismiss Amended Complaint (Doc. 36) filed July 10, 2017 and Defendants', Robert Valez and Rosaly Mendez Rodriguez, Motion to Dismiss Plaintiff's Amended Complaint (Doc. 42) filed July 24, 2017. The United States Magistrate Judge has submitted a report recommending that the motion be granted in part and denied in part.

After an independent *de novo* review of the record in this matter, and noting that no objections were timely filed, the Court agrees entirely with the findings of fact and conclusions of law in the Report and Recommendation.

Therefore, it is **ORDERED** as follows:

1. The Report and Recommendation filed August 31, 2017 (Doc. 48), is **ADOPTED** and **CONFIRMED** and made a part of this Order.
2. Defendant Apex Tool & Fastener, Inc.'s Motion to Dismiss Amended Complaint (Doc. 36) is **GRANTED IN PART AND DENIED IN PART**. Apex's motion to dismiss is **GRANTED in part**, in that the § 1030(b) conspiracy violation contained within

Count III of the Amended Complaint is **DISMISSED** as it relates to Apex, and the motion to dismiss is **DENIED** in all other respects.

3. Defendants', Robert Valez and Rosaly Mendez Rodriguez, Motion to Dismiss Plaintiff's Amended Complaint (Doc. 42) is **GRANTED IN PART AND DENIED IN PART**. The Individual Defendants' motion to dismiss is **GRANTED in part** in that the § 1030(b) conspiracy violation contained within Count III of the Amended Complaint is **DISMISSED** as it relates to Rodriguez and Valez, and the motion to dismiss is **DENIED** in all other respects.

4. Plaintiff may filed a second amended complaint, if it so chooses, on or before October 2, 2017.

DONE AND ORDERED in Orlando, Florida on September 18, 2017.


PAUL G. BYRON
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties