

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

JOSEPH J. ARGENTINE,

Plaintiff,

v.

CASE NO: 8:15-cv-957-T-26JSS

BANK OF AMERICA CORPORATION and  
FIA CARD SERVICES, N.A.,

Defendants.

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**ORDER**

Before the Court is Defendant Bank of America Corporation's Motion to Dismiss Amended Complaint (Dkt. 23) and Plaintiff's Response. (Dkt. 29). After careful consideration of the allegations of the Amended Complaint (Dkt. 17), the argument of counsel, and the applicable law, the Court concludes the motion should be denied.

This Court has previously set forth the standard by which the allegations of a complaint are measured to determine whether it survives a motion to dismiss filed pursuant to Federal Rule of Civil Procedure 12(b)(6).<sup>1</sup> See Ashcroft v. Iqbal, 556 U.S. 662, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009); Bell Atl. Corp. v. Twombly, 550 U.S. 544, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007). In its previous order, the Court ordered that Plaintiff "replead the complaint to specify the basis of liability for each Defendant in each

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<sup>1</sup> See docket 15.

count.”<sup>2</sup> Defendant Bank of America Corporation (BAC) contends, relying on the same grounds in its initial motion to dismiss, that the amended complaint does not clarify the grounds on which it is being sued.

The Court finds that the amended complaint with all the attached notices, agreements, and screen pages from the website for “Bank of America,” withstands dismissal. What Defendant BAC asserts is neatly delineated with respect to liability of the various entities, which are named in the materials attached to the amended complaint, and their specific roles in the offering of credit card programs, is not, however, so evident as to rule out liability on the part of Defendant BAC at the pleading stage. Defendant BAC may revisit this issue at a later stage of the proceedings in a motion for summary judgment after the record is more fully developed.

It is therefore **ORDERED AND ADJUDGED** that Defendant Bank of America Corporation’s Motion to Dismiss Amended Complaint (Dkt. 23) is **DENIED**. Defendant BAC shall file its answer and defenses, if any, within fourteen (14) days of this order.

**DONE AND ORDERED** at Tampa, Florida, on July 31, 2015.

*s/Richard A. Lazzara*  
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**RICHARD A. LAZZARA**  
**UNITED STATES DISTRICT JUDGE**

**COPIES FURNISHED TO:**  
Counsel of Record

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<sup>2</sup> See docket 15, p. 11.