

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CIVIL ACTION NO. 1:16cv00830-WOB

MEDPACE, INC.

PLAINTIFF

VS.

O R D E R

INSPIREMD, INC.,
ET AL.

DEFENDANTS

This matter is before the Court on the motion to dismiss the first amended complaint by defendant InspireMD, Ltd. (Doc. 15), plaintiff's response thereto (Doc. 17), and defendant's reply (Doc. 18). The Court has reviewed this matter and concludes that oral argument is unnecessary.

Plaintiff's claim for breach of contract is premised on a Master Services Agreement (MSA) between the parties (Doc. 1-1, 12-26), but the factual allegations in the First Amended Complaint are scant as to the specific services for which defendant allegedly failed to pay or the specific provisions of the MSA it breached.

These vague assertions amount, in substance, to a mere recitation of the elements of breach of contract action. More is required, even under the liberal pleadings standard of Fed. R. Civ. P. 8. See *Northhampton Rest. Grp., Inc. v. FirstMerit Bank, N.A.*, 492 F. App'x 518, 522 (6th Cir. 2012) (party advancing breach of contract claim must identify actual terms of contract breached).

However, in lieu of dismissal, the Court will allow plaintiff to amend its Amended Complaint to cure these deficiencies.

The Court will reserve on the issue of the propriety of plaintiff's alternative claims for unjust enrichment and promissory estoppel. However, the Court cautions the parties that they have an obligation to ensure that their claims are "warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law." Fed. R. Civ. P. 11(b)(2).

Therefore, having reviewed this matter, and the Court being advised,

IT IS ORDERED that defendant's motion to dismiss (Doc. 15) be, and is hereby, **DENIED**. Plaintiff shall file a Second Amended Complaint **within fifteen (15) days of entry of this Order**, curing the deficiencies discussed herein.

This 17th day of May, 2017.



Signed By:

William O. Bertelsman *WOB*

United States District Judge