

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MICHAEL MILLER,

Plaintiff,

v.

O'BRIEN CONSTRUCTION, INC.  
and BRE RC MONROE MP PA, L.P.,

Defendants.

No. 4:19-CV-01611

(Judge Brann)

**ORDER**

**AND NOW**, this 12<sup>th</sup> day of February 2020, in accordance with the accompanying Memorandum Opinion, **IT IS HEREBY ORDERED** that:

1. Defendant O'Brien Construction, Inc.'s motion to dismiss Count I of the complaint<sup>1</sup> (ECF No. 11) is **GRANTED**.
2. Defendant BRE RC Monroe MP PA, L.P.'s Motion to Dismiss Complaint (ECF No. 12) is **GRANTED**.
3. No later than February 26, 2020, Michael Miller **MAY FILE** an amended complaint to address the deficiencies in this Memorandum Opinion and Order.

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<sup>1</sup> Although titled "Motion of Defendant O'Brien Construction, Inc. to Dismiss Plaintiff's Complaint," the body of the motion seeks dismissal only of Count I.

4. If Mr. Miller fails to file an amended complaint by February 26, 2020:
  - a. Mr. Miller's Complaint, ECF No. 1, **SHALL BE CONSIDERED DISMISSED WITH PREJUDICE**, and
  - b. The Clerk of Court **SHALL CLOSE** this case.

BY THE COURT:

*s/ Matthew W. Brann*

Matthew W. Brann

United States District Judge