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

WELLSBORO INDUSTRIAL PARK, L.P., Plaintiff, v. WAUPACA FOUNDRY, INC., HITACHI METALS AMERICA, LTD., and HITACHI METALS AUTOMOTIVE COMPONENTS USA, LLC, Defendants.	No. 4:20-CV-00814 (Judge Brann)

MEMORANDUM OPINION AND ORDER

AUGUST 26, 2020

I. BACKGROUND

Defendants have moved to dismiss part of Plaintiff Wellsboro Industrial Park, L.P.'s ("WIP") complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim. Defendants seek dismissal of counts III (negligence), IV (strict liability), V (nuisance), and VI (trespass) of WIP's complaint.[1] The Court denies Defendants' motion.

[1] Doc. 6 at 2; Doc. 1-1 at ¶¶ 100-113.

II. DISCUSSION

A. Motion to Dismiss Standard

Under Federal Rule of Civil Procedure 12(b)(6), the Court dismisses a complaint, in whole or in part, if the plaintiff has failed to "state a claim upon which relief can be granted." A motion to dismiss "tests the legal sufficiency of a pleading"[2] and "streamlines litigation by dispensing with needless discovery and factfinding."[3] "Rule 12(b)(6) authorizes a court to dismiss a claim on the basis of a dispositive issue of law."[4] This is true of any claim, "without regard to whether it is based on an outlandish legal theory or on a close but ultimately unavailing one."[5]

Following the Roberts Court's "civil procedure revival,"[6] the landmark decisions of *Bell Atlantic Corporation v. Twombly*[7] and *Ashcroft v. Iqbal*[8] tightened the standard that district courts must apply to 12(b)(6) motions. These cases "retired" the lenient "no-set-of-facts test" set forth in *Conley v. Gibson* and replaced it with a more exacting "plausibility" standard.[9]

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2 *Richardson v. Bledsoe*, 829 F.3d 273, 289 n.13 (3d Cir. 2016) (Smith, C.J.) (*citing Szabo v. Bridgeport Machines, Inc.*, 249 F.3d 672, 675 (7th Cir. 2001) (Easterbrook, J.).

3 *Neitzke v. Williams*, 490 U.S. 319, 326-27 (1989).

4 *Neitzke*, 490 U.S. at 326 (*citing Hishon v. King & Spalding*, 467 U.S. 69, 73 (1984)).

5 *Neitzke*, 490 U.S. at 327.

6 Howard M. Wasserman, *The Roberts Court and the Civil Procedure Revival*, 31 REV. LITIG. 313, 316, 319-20 (2012).

7 550 U.S. 544 (2007).

8 556 U.S. 662, 678 (2009).

9 *Iqbal*, 556 U.S. at 670 (*citing Conley v. Gibson*, 355 U.S. 41 (1957)) ("[a]cknowledging that *Twombly* retired the *Conley* no-set-of-facts test").

Accordingly, after *Twombly* and *Iqbal*, "[t]o survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'"[10] "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged."[11] "Although the plausibility standard does not impose a probability requirement, it does require a pleading to show more than a sheer possibility that a defendant has acted unlawfully."[12] Moreover, "[a]sking for plausible grounds . . . calls for enough facts to raise a reasonable expectation that discovery will reveal evidence of [wrongdoing]."[13]

The plausibility determination is "a context-specific task that requires the reviewing court to draw on its judicial experience and common sense."[14] No matter the context, however, "[w]here a complaint pleads facts that are 'merely consistent with' a defendant's liability, it 'stops short of the line between possibility and plausibility of entitlement to relief.'"[15]

When disposing of a motion to dismiss, the Court "accept[s] as true all factual allegations in the complaint and draw[s] all inferences from the facts

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10 *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 570).
11 *Iqbal*, 556 U.S. at 678.
12 *Connelly v. Lane Const. Corp.*, 809 F.3d 780 (3d Cir. 2016) (Jordan, J.) (internal quotations and citations omitted).
13 *Twombly*, 550 U.S. at 556.
14 *Iqbal*, 556 U.S. at 679.
15 *Iqbal*, 556 U.S. at 678 (*quoting Twombly*, 550 U.S. at 557 (internal quotations omitted)).

alleged in the light most favorable to [the plaintiff]."[16] However, "the tenet that a court must accept as true all of the allegations contained in the complaint is inapplicable to legal conclusions."[17] "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice."[18]

As a matter of procedure, the United States Court of Appeals for the Third Circuit has instructed that:

> Under the pleading regime established by *Twombly* and *Iqbal*, a court reviewing the sufficiency of a complaint must take three steps. First, it must tak[e] note of the elements [the] plaintiff must plead to state a claim. Second, it should identify allegations that, because they are no more than conclusions, are not entitled to the assumption of truth. Finally, [w]hen there are well-pleaded factual allegations, [the] court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief.[19]

B. Facts Alleged in the Complaint

The facts alleged in the complaint, which I must accept as true for the purposes of this motion, are as follows.

WIP owns an industrial park at 9728 Route 276 North, Wellsboro, Tioga County, Pennsylvania.[20] WIP leased the industrial park to Defendants.[21] WIP alleges that Defendants contaminated the industrial park via spraying

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16 *Phillips v. Cnty. of Allegheny*, 515 F.3d 224, 228 (3d Cir. 2008) (Nygaard, J.).

17 *Iqbal*, 556 U.S. at 678 (internal citations omitted); *see also Fowler v. UPMC Shadyside*, 578 F.3d 203, 210 (3d Cir. 2009) (Nygaard, J.) ("After *Iqbal*, it is clear that conclusory or 'bare-bones' allegations will no longer survive a motion to dismiss.").

18 *Iqbal*, 556 U.S. at 678.

19 *Connelly*, 809 F.3d at 787 (internal quotations and citations omitted).

20 Doc. 1-1 at ¶ 5.

21 *See* Doc. 1-1 at ¶¶ 25-43.

metalworking fluid and other contaminants and hazardous materials.[22] Further, WIP alleges that, due to the contamination, "oily residue coated everything inside the plant, in particular the roofing structure, electrical fixtures, and insulation."[23] The industrial park "remain[s] unfit for use, occupation, sale, or tenancy."[24]

C. Analysis

Here, the complaint's negligence, strict liability, nuisance, and trespass claims all relate to the alleged contamination of the industrial park that WIP had leased to Defendants.[25]

From a reading of WIP's complaint, the Court suspects that WIP's claims here may "turn[] on the sufficiency of [Defendants'] performance under the terms of the" lease that Defendants made with WIP.[26] To wit, the lease provides that Defendants needed to return the industrial park in "good condition, order, and repair" at the termination of the lease.[27]

However, "caution should be exercised in determining the gist of an action at the motion to dismiss stage."[28] Further, [a]pplication of this doctrine frequently

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22 *See* Doc. 1-1 at ¶ 51.
23 *See* Doc. 1-1 at ¶¶ 52-61.
24 Doc. 1-1 at ¶ 64.
25 Doc. 1-1 at ¶¶ 100-113.
26 *Caudill Seed & Warehouse Co. v. Prophet 21, Inc.*, 123 F. Supp. 2d 826, 833 (E.D. Pa. 2000), *on reconsideration in part sub nom. Caudill Seed & Warehouse Co. v. Prophet 21, Inc.*, 126 F. Supp. 2d 937 (E.D. Pa. 2001)
27 Doc. 1-1 at ¶ 92.
28 *Caudill Seed & Warehouse Co. v. Prophet 21, Inc.*, 123 F. Supp. 2d 826, 834 (E.D. Pa. 2000), *on reconsideration in part sub nom. Caudill Seed & Warehouse Co. v. Prophet 21, Inc.*, 126 F. Supp. 2d 937 (E.D. Pa. 2001)

requires courts to engage in a factually intensive inquiry as to the nature of a plaintiff's claims."[29] Without the benefit of this more probing inquiry, the Court hesitates to dismiss the four counts in question at this juncture. Discovery "will provide the parties and the court a better idea of which, if any, claims are precluded."[30]

III. CONCLUSION

IT IS HEREBY ORDERED that Defendants' Motion to Dismiss, Doc. 3, is **DENIED**.

BY THE COURT:

s/ Matthew W. Brann
Matthew W. Brann
United States District Judge

[29] *Addie v. Kjaer*, 737 F.3d 854, 868 (3d Cir. 2013).
[30] *Am. Auto. Ins. Co. v. L.H. Reed & Sons, Inc.*, No. 3:14CV1911, 2015 WL 1566224, at *3 (M.D. Pa. Apr. 8, 2015).