

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TRACEY THOMPSON,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 3:22-CV-0150-D
VS.	§	
	§	
CT CORPORATION SYSTEM,	§	
	§	
Defendant.	§	

MEMORANDUM OPINION
AND ORDER

Defendant CT Corporation System’s February 8, 2022 motion to dismiss—to which plaintiff has not responded—is granted.¹ Applying the facial plausibility jurisprudence of *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), the court concludes that plaintiff’s state-court original petition fails to state a claim on which relief can be granted and is subject to dismissal under Fed. R. Civ. P. 12(b)(6), both on the merits and as barred by the statute of limitations.²

Plaintiff filed this case in state court, under the pleading standards that govern in that forum. She should be given an opportunity to replead under the federal pleading standards. *See, e.g., Hoffman v. L & M Arts*, 774 F.Supp.2d 826, 849 (N.D. Tex. 2011) (Fitzwater, C.J.) (granting similar

¹Under § 205(a)(5) of the E-Government Act of 2002 and the definition of “written opinion” adopted by the Judicial Conference of the United States, this is a “written opinion[] issued by the court” because it “sets forth a reasoned explanation for [the] court’s decision.” It has been written, however, primarily for the parties, to decide issues presented in this case, and not for publication in an official reporter, and should be understood accordingly.

²In addition to failing to state a claim, plaintiff affirmatively pleads facts that establish that her lawsuit is barred by the statute of limitations. She alleges in her original petition that she was injured on November 12, 2019. Pet. at 2, ¶ 4. She filed this lawsuit in state court more than two years later, on December 20, 2021.

relief in removed case). Accordingly, the court grants plaintiff 28 days from the date this order is filed to file an amended complaint. If she fails to replead, this action will be dismissed based on defendant's February 8, 2022 motion. If she repleads, defendant may move anew to dismiss, if it has a basis to do so.

SO ORDERED.

March 3, 2022.



SIDNEY A. FITZWATER
SENIOR JUDGE