

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

CAPTRAN/TANGLEWOOD LLC,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. H-08-2374
	§	
THOMAS N. THURLOW & ASSOCIATES,	§	
A PROFESSIONAL CORPORATION;	§	
THOMAS N. THURLOW; LAW OFFICES	§	
OF TONY MARTINEZ, P.C.; PETROFF	§	
& ASSOCIATES, LTD., L.L.P.;	§	
and ABRAHAM, WATKINS, NICHOLS,	§	
SORRELS, MATTHEWS & FRIEND,	§	
	§	
Defendants.	§	

MEMORANDUM AND ORDER

Pending is Defendant and Third-party Plaintiff Abraham, Watkins, Nichols, Sorrels, Matthews & Friend's ("Abraham Watkins") Motion to Dismiss Thomas N. Thurlow's ("Thurlow") Cross Action Under Fed. R. Civ. P. 12(b)(6) (Document No. 70). In Thurlow's answer to Abraham Watkins's third-party complaint, Thurlow included a one-sentence "cross action," as follows:

"Thurlow" would show that if Abraham Watkins chooses to dishonor the obligations herein that "Thurlow" is entitled to the entire amount of attorney's fees received by Abraham Watkins for the settlement of the cases sent by "Thurlow" to Abraham Watkins.<sup>1</sup>

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<sup>1</sup> Document No. 69 at 3-4.

Abraham Watkins moves to dismiss Thurlow's cross action under Rule 12(b)(6). Thurlow failed to respond to the motion to dismiss, see Local Rule 7.4 ("Failure to respond will be taken as a representation of no opposition."), and Thurlow's cross action fails to allege a plausible basis for relief against Abraham Watkins. See Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009) ("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."). Accordingly, it is

ORDERED that Defendant and Third-party Plaintiff Abraham, Watkins, Nichols, Sorrels, Matthews & Friend's Motion to Dismiss Thomas N. Thurlow's Cross Action Under Fed. R. Civ. P. 12(b)(6) (Document No. 70) is GRANTED, and Thomas N. Thurlow & Associates and Thomas N. Thurlow's cross action against Abraham Watkins is DISMISSED.

The Clerk will enter this Order, providing a correct copy to all parties of record.

SIGNED at Houston, Texas, on this 23<sup>d</sup> day of August, 2010.

  
EWING WERLEIN, JR.  
UNITED STATES DISTRICT JUDGE