

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RENEE GRATZER,

Plaintiff,

V.

MEDTOUCH, LLC,

Defendant.

C17-843 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Defendant's motion to dismiss, docket no. 17, is DENIED in part and GRANTED in part. The Court is satisfied that, with one exception, the Amended Complaint, docket no. 11, sufficiently states "plausible" grounds for relief. See Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). With regard to the claims for wrongful wage withholding, retaliatory discharge in violation of public policy, and negligent infliction of emotional distress, the Amended Complaint provides "more than labels and conclusions," contains more than a "formulaic recitation of the elements of a cause of action," and indicates more than mere speculation of a right to relief. See id. at 555. As to those three claims, the pleading offers cognizable legal theories, as well as sufficient facts, the truth of which must be assumed, to support them. See Robertson v. Dean Witter Reynolds, Inc., 749 F.2d 530, 534 (9th Cir. 1984); see also Usher v. City of Los Angeles, 828 F.2d 556, 561 (9th Cir. 1987). With respect, however, to plaintiff's claim of outrage (intentional infliction of emotional distress), the Amended Complaint does not contain allege conduct that is "so outrageous in character, so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community." See Kloepfel v. Bokor, 149 Wn.2d 192, 196, 66 P.3d 630 (2003). Plaintiff's outrage claim is therefore DISMISSED without prejudice. Any motion for leave to amend to reassert the outrage claim must be filed within fourteen (14) days of the date of this Minute Order.

(2) The Clerk is directed to send a copy of this Minute Order to all counsel of record.

Dated this 8th day of September, 2017.

William M. McCool

Clerk

s/Karen Dews

Deputy Clerk