

Honorable Judge Amy

**UNITED STATES DISTRICT COURT
OF PARIS, TEXAS**

Fabulous 1, Inc.,

Plaintiff,

v.

Fabulous 2, Inc

Defendant.

Civil Action 112-221-JJ-BOA B

Plaintiff's Motion to Exemplify

1. INTRODUCTION

COME NOW Defendant Fabulous 2, Inc., who move to dismiss the Plaintiff's claims for Relief in the Complaint for failure to state a claim pursuant to Common Law. The Plaintiff has the burden of production to come forward with facts demonstrating a prima facie case.

The Plaintiff's Complaint is insufficient in its allegations and fails to state a claim against Defendant Fabulous 2, Inc. The Complaint lacks the necessary elements of a valid claim and does not meet the required standards for pleading a cause of action. As a result, Defendant Fabulous 2, Inc. respectfully moves to dismiss the Plaintiff's claims for relief for failure to state a claim.

The Plaintiff has the burden of production to come forward with facts demonstrating a prima facie case see Memorial ¶ 42. This means that the Plaintiff must present enough evidence to show that each element of the cause of action has been met. The Plaintiff must also show that these elements are consistent with the allegations in the Complaint. The arguments presented in the Counter Memorial ¶¶ 7 and 12

However, the Complaint in this case fails to meet these requirements. The allegations are vague and conclusory, and do not provide enough detail to support a valid claim. The Plaintiff has failed to come forward with sufficient evidence to demonstrate a prima facie case.

In addition, the Complaint is not supported by any factual allegations that would support a valid cause of action. The Plaintiff must plead specific facts that support the claims made in the Complaint(Exhibit 1, page 7). The Complaint in this case is devoid of any factual allegations that would support the claims made against Defendant Fabulous 2, Inc (Exhibit 2, page 3).

Furthermore, the Plaintiff has failed to plead a claim with the required level of specificity. The Complaint is too general (Counter Memorial ¶¶ 9-12) and does not provide enough detail to

support a valid claim. The Plaintiff must plead specific facts that demonstrate a prima facie case against Defendant Fabulous 2, Inc (Exhibit 4 pages 4,5 and 6).

2. ARGUMENT

Given these deficiencies, it is clear that the Complaint fails to state a claim against Defendant Fabulous 2, Inc (Exhibit 2, page1). The Plaintiff has not met the required standards for pleading a cause of action, and has not provided enough evidence to support a valid claim.

For these reasons, Defendant Fabulous 2, Inc. respectfully moves to dismiss the Plaintiff's claims for relief for failure to state a claim. The Complaint is deficient in its allegations and does not meet the required standards for pleading a cause of action (Exhibit 2 page 2). The Plaintiff has failed to come forward with sufficient evidence to demonstrate a prima facie case, and the Complaint is not supported by any factual allegations that would support a valid claim.

The court shall consider all well-pleaded allegations in the complaint as true and construe them in the light most favorable to the plaintiff. The court may also consider documents incorporated by reference in the complaint, documents that are central to the plaintiff's claims, and documents that the defendant attaches to the motion to dismiss (Exhibit 4 page 2).

If the court determines that the complaint fails to state a claim (Memorial ¶ 17) , the court may grant the motion to dismiss with prejudice or without prejudice. A dismissal with prejudice means that the plaintiff cannot refile the same claims again in the future (Memorial ¶¶ 22-32). A dismissal without prejudice means that the plaintiff may refile the same claims at a later time, provided the statute of limitations has not run (Counter Memorial ¶¶ 83, 85 and 97).

The court may also grant the motion to dismiss if the plaintiff has failed to exhaust administrative remedies or if the plaintiff's claims are barred by sovereign immunity. In these cases, the court may dismiss the complaint with prejudice (Exhibit 3 page 12).

A motion to dismiss is an appropriate vehicle for challenging the sufficiency of a complaint that fails to state a claim upon which relief can be granted. A motion to dismiss is not the proper vehicle for challenging the merits of the case or for arguing the facts of the case.

The court may also grant the motion to dismiss if the plaintiff has failed to join an indispensable party (Counter Memorial ¶ 17). An indispensable party is a person who has such a close relationship to the case that the case cannot proceed without that person being a party to the case.

The court may also grant the motion to dismiss if the plaintiff has failed to comply with the pleading requirements set forth in the Federal Rules of Civil Procedure. The Federal Rules of Civil Procedure require that a complaint include a short and plain statement of the claim, a demand for relief, and a statement of the grounds for relief (Exhibit 7, pages 1, 2 ,3).

The court may also grant the motion to dismiss if the plaintiff has failed to comply with the statute of limitations. The statute of limitations is a time limit that bars a plaintiff from filing a claim after a certain period of time has passed (Memorial ¶ 27). The statute of limitations varies depending on the type of claim and the jurisdiction in which the claim is filed.

The court may also grant the motion to dismiss if the plaintiff has failed to comply with the statute of frauds. The statute of frauds is a rule that requires certain types of contracts to be in writing in order to be enforceable (Memorial ¶¶ 4 and 5). The statute of frauds varies depending on the jurisdiction in which the claim is filed.

The court may also grant the motion to dismiss if the plaintiff has failed to comply with the notice requirements set forth in the Federal Rules of Civil Procedure (Counter Memorial ¶¶ 9-12). The Federal Rules of Civil Procedure require that a plaintiff provide notice to the defendant of the plaintiff's claims.

The court may also grant the motion to dismiss if the plaintiff has failed to comply with the venue requirements set forth in the Federal Rules of Civil Procedure (Counter Memorial ¶ 17). The Federal Rules of Civil Procedure require that a lawsuit be filed in a proper venue, which is typically the location where the defendant resides or where the events giving rise to the lawsuit took place.

The court may also grant the motion to dismiss if the plaintiff has failed to comply with the jurisdiction requirements set forth in the Federal Rules of Civil Procedure. The Federal Rules

of Civil Procedure require that the defendant be subject to the jurisdiction of the court in which the lawsuit is filed.

The court may also grant the motion to dismiss if the plaintiff has failed to comply with the standing requirements set forth in the Federal Rules of Civil Procedure. The Federal Rules of Civil Procedure require that a plaintiff have standing to bring a lawsuit, which means that the plaintiff must have suffered an injury that is fairly traceable to the defendant's conduct and that is likely to be redressed by a favorable decision from the court (Memorial ¶¶ 44-48).

The Plaintiff's failure to state a claim is a matter of law and requires the Court to dismiss the Complaint. The Plaintiff has not met the required standards for pleading a cause of action, and the Complaint is devoid of any factual allegations that would support the claims made against Defendant Fabulous 2, Inc.

In making its determination on a motion to dismiss made pursuant to paragraph one of this subdivision, the court shall consider the pleadings, and supporting and opposing affidavits stating the facts upon which the action or defense is based (Memorial ¶¶ 19, 20 and 21). No determination made by the court on a motion to dismiss brought under this section, nor the fact of that determination, shall be admissible in evidence at any later stage of the case, or in any subsequent action, and no burden of proof or degree of proof otherwise applicable shall be affected by that determination in any later stage of the case or in any subsequent proceeding.

Given these considerations, it is clear that the Plaintiff's claims for relief must be dismissed for failure to state a claim. The Complaint is insufficient in its allegations and fails to meet the required standards for pleading a cause of action. The Plaintiff has failed to come forward with sufficient evidence to demonstrate a prima facie case, and the Complaint is not supported by any factual allegations that would support a valid claim.

The Court should dismiss the Complaint because it fails to state a claim against Defendant Fabulous 2, Inc. The Plaintiff has not met the required standards for pleading a cause of action, and has not provided enough evidence to support a valid claim. The Complaint is devoid of any factual allegations that would support the claims made against Defendant Fabulous 2, Inc.

Given these considerations, it is clear that the Plaintiff's claims for relief must be dismissed for failure to state a claim. The Complaint is insufficient in its allegations and fails to meet the required standards for pleading a cause of action (Exhibit 5). The Plaintiff has failed to come forward with sufficient evidence to demonstrate a prima facie case, and the Complaint is not supported by any Jones's allegations of being threatened by staff members at FCA Woodridge and his subsequent transfer to the CMA at USP Marion raise concerns about retaliation. However, the lack of specificity and the existence of alternative explanations for his transfer undermine the plausibility of his claims.

3. CONCLUSION

The threat by staff members to send Jones "east" is too vague to provide any meaningful context or understanding of what actually happened. The Complaint fails to provide any details about the circumstances surrounding the threat, leaving the reader to guess at what was meant by the phrase (Exhibit 1, page 10).

Additionally, the Complaint does not provide any facts to show that there was a close relationship in time between the threat and the transfer decision. This raises questions about whether there was any connection between the two events, or whether they were simply unrelated.

Even if we were to assume that the threat and transfer were related (see Memorial ¶ 45), Jones's allegations are still not plausible under the standard established in *Twombly* and *Iqbal*. The Supreme Court in *Iqbal* emphasized that mere consistency with a defendant's liability is not enough to establish a plausible claim for relief. In order to be entitled to relief, a complaint must plead facts that support a plausible explanation for the defendant's liability.

In light of these considerations, it is not clear that Jones's allegations support a claim of retaliation. Rather, it is possible that he was transferred to the CMA for engaging in radicalization and recruitment efforts while incarcerated, as the Complaint alleges (Counter Memorial ¶ 34).

Therefore, given the lack of specificity in the allegations and the existence of alternative explanations, it is not plausible that Jones's claims of retaliation are entitled to relief.

For these reasons, the Defendants respectfully request that the Court grant their Motion To Dismiss all of the Plaintiffs' and Family Plaintiffs' claims with prejudice (Memorial ¶ 33). The Court should dismiss the claims because they are not supported by sufficient factual allegations and lack plausibility under the standard established by Twombly and Iqbal (Exhibit 3, pages 2, 3, 6 and 12-25).

In conclusion, the Complaint fails to allege facts that would support a plausible claim of retaliation against the Defendants. The vague and unspecific nature of Jones's allegations, combined with the lack of a close relationship in time between the threat and transfer decision, make it difficult to determine whether his transfer was actually the result of retaliation.

Given these considerations, the Defendants' Motion To Dismiss should be granted, and all of the Plaintiffs' and Family Plaintiffs' claims should be dismissed with prejudice. The Court should dismiss the claims because they are not supported by sufficient factual allegations and lack plausibility under the standard established by Twombly and Iqbal.