

DA 19-0221

IN THE SUPREME COURT OF THE STATE OF MONTANA

2019 MT 261N

WAYNE RJ NOWACKI,

Plaintiff and Appellant,

v.

MATT SCHMECHEL and SEAN GRAVES,

Defendants and Appellees.

APPEAL FROM: District Court of the First Judicial District,
In and For the County of Lewis and Clark, Cause No. BDV-2018-1211
Honorable Michael F. McMahon, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Wayne Ralph John Nowacki, Self-Represented, Helena, Montana


For Appellees:

Scott Peterson, Morrison Sherwood Wilson & Deola, PLLP, Helena,
Montana

Submitted on Briefs: August 14, 2019

Decided: October 29, 2019

Filed:


Clerk

Justice Laurie McKinnon delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 Wayne Nowacki appeals an order of the First Judicial District Court, Lewis and Clark County, granting Matt Schmechel and Sean Graves's (together, Defendants) motion to dismiss. We affirm.

¶3 This case arises from Mr. Nowacki's previous employment at the Windbag Saloon & Grill (Windbag) in Helena, Montana. Mr. Nowacki's District Court complaint contained several factual allegations which occurred during his tenure as a Windbag dishwasher, including, among other things: (1) that the last four digits of his social security number were visible to other employees and the public at-large; (2) that he faced questions from another employee about private matters; and (3) that other employees would not let him do his job. The complaint did not mention either named Defendant and contained no facts linking either Defendant, through vicarious liability or otherwise, to any alleged wrongdoing. Furthermore, the complaint contained only one prayer for relief—lost wages—but failed to include factual allegations connecting the relief sought to the complained-of wrongdoing.

¶4 The Defendants filed a motion to dismiss for failure to state a claim pursuant to M. R. Civ. P. 12(b)(6). The District Court granted the Defendants' motion and dismissed

Mr. Nowacki's complaint with prejudice because it contained "no alleged facts showing a connection between any claimed wrongdoing and compensation for [his] lost wages."

We affirm the District Court's decision to dismiss Mr. Nowacki's complaint.

¶5 A district court's determination under M. R. Civ. P. 12(b)(6) that a complaint fails to state a claim upon which relief can be granted operates as a conclusion of law. *Brewington v. Emp'rs Fire Ins. Co.*, 1999 MT 312, ¶ 11, 297 Mont. 243, 992 P.2d 237 (citing *Trankel v. State*, 282 Mont. 348, 351, 938 P.2d 614, 616 (1997)). We review a district court's conclusions of law to determine whether the trial judge's interpretation of the law is correct. *Brewington*, ¶ 11 (citing *Trankel*, 282 Mont. at 351, 938 P.2d at 616).

¶6 The issue raised on appeal is whether the District Court correctly granted the Defendants' motion to dismiss. "A motion to dismiss under [M. R. Civ. P. 12(b)(6)] has the effect of admitting all well-pleaded allegations in the complaint. In considering the motion, the complaint is construed in the light most favorable to the plaintiff, and all allegations of fact contained therein are taken as true." *Brewington*, ¶ 11 (quoting *Lockwood v. W.R. Grace & Co.*, 272 Mont. 202, 207, 900 P.2d 314, 317 (1995)). "A claim is subject to dismissal only if it either fails to state a cognizable legal theory for relief or states an otherwise valid legal claim but fails to state sufficient facts that, if true, would entitle the claimant to relief under that claim." *Puryer v. HSBC Bank USA, N.A.*, 2018 MT 124, ¶ 12, 391 Mont. 361, 419 P.3d 105 (citing *Anderson v. ReconTrust Co., N.A.*, 2017 MT 313, ¶ 8, 390 Mont. 12, 407 P.3d 692). "The liberal notice pleading requirements of M. R. Civ. P. 8(a) and 12(b)(6) do 'not go so far to excuse omission of that which is material and necessary in order to entitle relief,' and the 'complaint must

state something more than facts which, at most, would breed only a suspicion' that the claimant may be entitled to relief." *Puryer*, ¶ 12 (quoting *Jones v. Mont. Univ. Sys.*, 2007 MT 82, ¶ 42, 337 Mont. 1, 155 P.3d 1247). "This Court will look only within the four corners of the complaint" when reviewing a district court's decision to grant a motion to dismiss under M. R. Civ. P. 12(b)(6). *Stufft v. Stufft*, 276 Mont. 310, 313, 916 P.2d 104, 106 (1996) (citing *Irving v. Sch. Dist. No. 1-1A*, 248 Mont. 460, 464, 813 P.2d 417, 419 (1991)).

¶7 Here, Mr. Nowacki's complaint lacks any reference to either named Defendant and fails to include within the four corners any allegations that the Defendants caused Mr. Nowacki harm. Likewise, Mr. Nowacki's complaint is facially devoid of any cognizable legal theory and fails to establish a causal connection between the harm alleged and his only prayed-for relief: damages for lost wages in the amount of \$31,001,100.

¶8 The District Court properly granted the Defendants' motion to dismiss, because Mr. Nowacki failed to state a claim and allege facts upon which relief could be granted. M. R. Civ. P. 12(b)(6). Mr. Nowacki alleges no facts showing a connection between any claimed wrongdoing and compensation for lost wages. For the foregoing reasons, we affirm the District Court's grant of the motion to dismiss.

¶9 We have determined to decide this case pursuant to Section I, Paragraph 3(c) of our Internal Operating Rules, which provides for memorandum opinions. This appeal presents no constitutional issues, no issues of first impression, and does not establish new precedent or modify existing precedent.

¶10 Affirmed.

/S/ LAURIE McKINNON

We concur:

/S/ JAMES JEREMIAH SHEA

/S/ JIM RICE

/S/ BETH BAKER

/S/ INGRID GUSTAFSON