

ENTRY ORDER

SUPREME COURT DOCKET NO. 2020-162

VERMONT SUPREME COURT
FILED IN CLERK'S OFFICE

JUN 15 2020

JUNE TERM, 2020

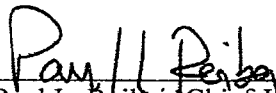
SNFFRESHSTART, LLC* & Fuad
Ndibalema* v. Mark A. Levine


} APPEALED FROM:
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} Superior Court, Washington Unit
} Civil Division
}
} DOCKET NO. 130-3-19 Wncv

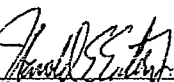
In the above-entitled cause, the Clerk will enter:

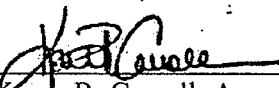
The trial court denied plaintiff's request for permission to take an interlocutory appeal. To the extent that plaintiff seeks such permission from this Court, that request is denied as plaintiff fails to satisfy the requirements of V.R.A.P. 5(b). This appeal is therefore dismissed.

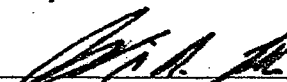
BY THE COURT:


Paul L. Reiber, Chief Justice


Beth Robinson, Associate Justice


Harold E. Eaton, Jr., Associate Justice


Karen R. Carroll, Associate Justice


William D. Cohen, Associate Justice

APP- (B) P. 1-1

ENTRY ORDER

SUPREME COURT DOCKET NO. 2020-162

JULY TERM, 2020

VERMONT SUPREME COURT
FILED IN CLERK'S OFFICE

JUL 17 2020

SNFFRESHSTART, LLC* & Fuad
Ndibalema* v. Mark A. Levine

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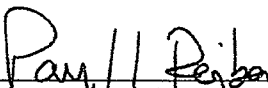
}
}
} Superior Court, Washington Unit
} Civil Division
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} DOCKET NO. 130-3-19 Wncv


In the above-entitled cause, the Clerk will enter:

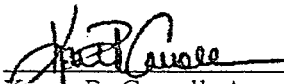
Appellants' motion for reconsideration is denied.


BY THE COURT:


Paul L. Reiber, Chief Justice


Beth Robinson, Associate Justice


Harold E. Eaton, Jr., Associate Justice


Karen R. Carroll, Associate Justice


William D. Cohen, Associate Justice

APP-(A) P.1-1

STATE OF VERMONT

SUPERIOR COURT
Washington Unit

CIVIL DIVISION

Docket No. 130-3-19 Wncv

SNFFRESHSTARTART, LLC,
Fuad Ndibalema,
Plaintiffs

v.

Mark A. Levine,
Defendant

2020 JAN 31 P 3:42

FILED

Opinion and Order on Motion to Dismiss

Plaintiff brings this action apparently challenging some conduct of Defendant. He has filed an initial Complaint, an Amended Complaint, and a number of motions for injunctive relief. Defendant moved to dismiss the initial Complaint and, now, has moved to dismiss the Amended Complaint under Vt. R. Civ. P. 12(b)(6). He argues that it fails to state a cognizable claim for relief. The Court makes the following determinations.

The Vermont Supreme Court disfavors Rule 12(b)(6) motions to dismiss. “Dismissal under Rule 12(b)(6) is proper only when it is beyond doubt that there exist no facts or circumstances consistent with the complaint that would entitle Plaintiff to relief.” *Bock v. Gold*, 2008 VT 81, ¶ 4, 184 Vt. 575, 576 (mem.) (quoting *Union Mut. Fire Ins. Co. v. Joerg*, 2003 VT 27, ¶ 4, 175 Vt. 196, 198)). In considering a motion to dismiss, the Court “assume[s] that all factual allegations pleaded in the complaint are true, accept[s] as true all reasonable inferences that may be derived from plaintiff’s pleadings, and assume[s] that all contravening

Defendant must be able to evaluate and respond to the complaint as a freestanding document, without resort to paging through accompanying motions.

That does not mean that a complaint needs to be lengthy or full of legal citations and jargon. Just the opposite. All that is required is that it provide "(1) a short and plain statement of the claim showing that the pleader is entitled to relief, and (2) a demand for judgment for the relief the pleader seeks." Vt. R. Civ. P. 8. The present Amended Complaint fails to do so and fails to provide the minimal information necessary to understand the claims Plaintiff is raising. While Plaintiff is representing himself, he is still "bound by the ordinary rules of civil procedure." *Vahlteich v. Knott*, 139 Vt. 588, 590-591 (1981).

Nonetheless, while dismissal is a possible remedy under such circumstances, the Court is cognizant that Plaintiff is *pro se* and, mixed somewhere in the voluminous filings to date, there may be a cognizable claim or claims. An alternative to dismissal is available. Under Vt. R. Civ. P. 12(e), if a complaint "is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading," the Court can order a plaintiff to file a new complaint that comports with Rule 8. The Court will do that in this case. Additionally, until a complaint has been filed to which Defendant files an Answer or that withstands a motion to dismiss, the Court will not entertain requests for injunctive relief. Once such an actionable complaint is before the Court, Plaintiff may either move forward with discovery or file additional motions.

WHEREFORE, per Civil Rules 8 and 12(e), Plaintiff shall submit a Second Amended Complaint consistent with this opinion within 21 days. Defendant shall