

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

JOHN PHILLIP CATALFAMO, Plaintiff, v. CONNECTEDLIFE DESIGNS, THE STEREOSHOP, INC., and JUSTIN MAZON Defendants.	Civil Action No. 2:25-cv-01700-NR
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**DEFENDANTS CONNECTEDLIFE DESIGNS, THE STEREOSHOP, INC., AND
JUSTIN MARZON’S MEMORANDUM OF LAW IN SUPPORT OF THEIR PARTIAL
MOTION TO DISMISS COUNTS I, II, AND III OF THE FIRST AMENDED
COMPLAINT**

I. INTRODUCTION & FACTUAL BACKGROUND

Defendant The StereoShop, Inc. (“StereoShop”), d/b/a ConnectedLife Designs, hired Plaintiff, John Phillip Catalfamo (“Mr. Catalfamo”), on or around June 26, 2023. Mr. Catalfamo now makes the baseless allegation that Defendants harassed and terminated his employment based upon his race (Black) and engaged in retaliatory conduct in violation of 42 U.S.C. § 1981 (“Section 1981”). Noticeably absent from Mr. Catalfamo’s claims under Section 1981 (Counts I-III of the Complaint; hereinafter the “1981 Claims”) is any allegation that Mr. Catalfamo’s race or African ancestry was the sole “but for” cause of his termination. Furthermore, many facts Mr. Catalfamo pleads which are explicitly incorporated into his 1981 Claims actually contradict the notion that racial discrimination or related retaliation were “but-for” causes of his purported termination. Although Federal Rule of Civil Procedure 8(d) allows for the pleading of alternative, inconsistent

legal theories, inconsistent facts that are not plead in the alternative can be fatal to a plaintiff's claim.

II. ARGUMENT

A. Standard of Review under FRCP 12(b)(6)

When considering a Rule 12(b)(6) motion to dismiss, the court must accept as true all factual allegations. *Ericson v. Partis*, 551 U.S. 89, 94 (2007). Although the court must accept all well-pleaded facts as true and draw reasonable inferences in favor of the plaintiff, it need not accept legal conclusions masquerading as facts. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). “While a Complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff’s obligation to provide the grounds of his entitlement to relief requires more than labels and conclusions in a formulaic recitation of the elements of a cause of action will not do.” *Twombly*, 550 U.S. at 555. The Court must dismiss a complaint if the plaintiff fails to allege enough facts “to state a claim for relief that is plausible on its face.” *Iqbal*, 129 S.Ct. at 678 (quoting *Twombly*, 550 U.S. at 570). A complaint cannot survive where a court can only infer the “mere possibility” of a claim. *Id.* at 679. The court is not compelled to accept “unsupported conclusions and unwarranted inferences, or a legal conclusion couched as a factual allegation.” *Castleberry v. STI Grp.*, 863 F.3d 259, 263-64 (3d Cir. 2017) (citing *Morrow v. Balaski*, 719 F.3d 160, 165 (3d Cir. 2013) (en banc)). The allegations must have “facial plausibility,” meaning that “the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (citing *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S.Ct. 1937, 173 L.Ed.2d 868).

The Third Circuit Court of Appeals requires trial courts to employ a three step analysis for deciding Rule 12(b)(6) motions: “First, the court must ‘tak[e] note of the elements a plaintiff must

plead to state a claim.’ Second, the court should identify allegations that, ‘because they are no more than conclusions, are not entitled to the assumption of truth.’ Finally, ‘where there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement for relief.’” *Clemente v. Allstate Ins. Co.*, 647 F. Supp. 3d 356, 365 (W.D. Pa. 2023) (citing *Burtch v. Milberg Factors, Inc.*, 662 F.3d 212, 221 (3d Cir. 2011), in turn quoting *Santiago v. Warminster Twp.*, 629 F.3d 121, 130 (3d Cir. 2010)). In this case, the factual allegations that are contained in the Complaint actually contradict the notion that Mr. Catalfamo is entitled to relief under § 1981.

B. Mr. Catalfamo fails to state a claim of harassment/termination based on race and retaliation under § 1981 because his factual allegations contradict the claim that race was a “but-for” cause.

Mr. Catalfamo’s 1981 Claims must fail for three reasons. First, Mr. Catalfamo failed to plead that racial discrimination/retaliation was the “but-for” cause of the purported adverse employment action, as required for causes of action under 42 U.S.C. § 1981. Second, the necessary facts Mr. Catalfamo pleads in support of his 1981 Claims actually contradict the notion that Mr. Catalfamo’s race was a but-for cause of Defendant’s actions. Third, although Mr. Catalfamo is allowed to plead several inconsistent causes of action in the alternative, the First Amended Complaint fails to plead inconsistent and self-defeating facts in the alternative, and instead incorporates all inconsistent facts into each count. Since these inconsistent facts support non-race-based reasons for Mr. Catalfamo’s termination, they are fatal to any 1981 Claim where pleading of “but-for” causation is required.

The language of Section 1981 provides that “All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for

the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes and licenses, and exactions of every kind, and to no other.” 42 U.S.C. §1981(a).

“The elements of a section 1981 [employment] claim are: (1) that the plaintiff is a member of a protected class; (2) intent to discriminate based on race; (3) discrimination that concerns the right to make and enforce contracts; and (4) but-for causation. *Clemente v. Allstate Ins. Co.*, 647 F. Supp. 3d 356, 368 (W.D. Pa. 2022) (citing *Comcast Corp. v. Nat’l Ass’n of African American-Owned Media*, 140 S. Ct. 1009, 1013 (2020) and *Brown v. Philip Morris Inc.*, 250 F.3d 789, 797 (3d Cir. 2001) (quotations omitted). The fourth element differs importantly from Title VII claims, as under Section 1981, “[t]o prevail, a plaintiff must initially plead . . . that, but for race, it would not have suffered the loss of a legally protected right.” *Comcast*, 140 S. Ct. at 1019 (emphasis added); *see also Robinson v. Giant Eagle*, 2024 U.S. App. LEXIS 4198, *2 (3d Cir. Feb. 23, 2024) (noting that “because Appellants brought this case under 42 U.S.C. § 1981, they cannot succeed by demonstrating that race may have been a ‘motivating factor’ in their termination; instead, they must show that, but for their race, Giant Eagle would not have fired them” (citing *Comcast*, 140 S. Ct. at 1017-1019)); *Arunachalam v. IBM*, No. 20-1020, 2021 U.S. Dist. LEXIS 247721, *31 (Del. Dist. Dec. 29, 2021) (dismissing §1981 claims where alleged causation for patent-infringement was due to “race, color, Indian accent, disability, age, gender, and religion,” with court concluding that “[e]ven as alleged, Plaintiff’s race was, at most, one of several factors that led to the alleged discrimination.”).

1. Mr. Catalfamo fails to properly plead but-for racial causation.

As stated above, under § 1981, “[t]o prevail, a plaintiff must initially plead . . . that, but for race, it would not have suffered the loss of a legally protected right.” *Comcast*, 140 S. Ct. at 1019

(emphasis added). It is not enough to show that race played some role in the defendant’s decision-making process. *Evans v. Wellhead*, 764 F. Supp. 3d 298, 307 (W.D. Pa. 2025). Within each of his 1981 Claims, Mr. Catalfamo pleads “as a direct and proximate result” of Defendants’ conduct, Plaintiff suffered damages (Plaintiff’s First Amended Complaint, ECF #2; hereinafter “Cmpl.”; at Count I: ¶¶ 62-63; Count II ¶ 74; Count III ¶ 81). However, “but-for” cause and “proximate cause” are separate analyses. *See e.g. Holmes v. Sec. Inv’r Prot. Corp.*, 503 U.S. 258, 267-68 (1992); *United States ex rel. Cimino v. IBM*, 453 F.4th 412, 420-21 (D.C. Cir. 2021); *Napper v. Hankison*, 617 F. Supp. 3d 703, 721 (W.D. Ky. 2022) (for “constitutional and common-law claims alike, plaintiffs must establish that the defendants’ actions ‘w[ere] both the cause in fact and the proximate cause of the’ injury”) (quoting *Powers v. Hamilton County Pub. Def. Comm’n*, 501 F.3d 592, 608 (6th Cir. 2007)).

Mr. Catalfamo also pleads in his general factual allegations, incorporated by reference into each 1981 Claim (Cmpl. at ¶¶ 58, 66, and 76), that he was terminated “because of” his race (Cmpl. ¶ 39), and within Count 1 that “[b]y reason of” Defendant’s conduct, Plaintiff is entitled to damages. (Cmpl. ¶ 64). Admittedly, *Comcast* equates “because of” and “by reason of” with “but-for” causation. 140 S. Ct. at 1015-16. Nevertheless, these allegations are mere conclusions of law. More importantly, fatal to Mr. Catalfamo’s 1981 Claims, also within his general factual allegations and therefore incorporated into his 1981 Claims, Mr. Catalfamo pleads as “evidence of causation” of his termination the “temporal proximity of Plaintiff’s notification of his disability and intent to seek workers compensation” (Cmpl. ¶ 54), as well as pleading Paragraphs 32 through 38 in additional factual support of causation related to disability discrimination and worker’s compensation retaliation.

In an employment case, a plaintiff cannot show but-for causation when there are multiple independent causes-in-fact of a harm. *Gross v. FBL Fin. Servs.*, 129 S. Ct. 2343, 2351 (2009) (holding under the ADEA that a Plaintiff is prohibited from making a “mixed motive” argument acknowledging that both the employer’s non-discriminatory reason and the employee’s discriminatory reason were causes of the adverse employment action when the statute requires proof of “but-for” causation). Furthermore, courts have recognized that, while there can be multiple proximate causes of a harm, a requirement to plead a “but-for” cause is equivalent to a requirement to plead that a particular cause was the *only* proximate cause. See *Holiday v. Atl. Richfield Co.*, No. 2:16-CV-525-JVB-JPK, 2021 U.S. Dist. LEXIS 158743, at *26 (N.D. Ind. Aug. 23, 2021). To that point, a Section 1981 claim should be dismissed if a plaintiff alleges that their “race was, at most, one of several factors that led to the alleged discrimination.” *Arunachalam*, 2021 U.S. Dist. LEXIS 247721, at *31. Mr. Catalfamo, by incorporating his factual allegations that his termination was caused by his notification to Defendants of his disability and intent to seek workers compensation into his 1981 Claims, has effectively contradicted any but-for allegations. In essence, if his termination was caused by disability discrimination and/or worker’s compensation retaliation, he cannot show that his race was a but-for cause as well. Therefore, the allegations in the First Amended Complaint are self-defeating as to the 1981 Claims, and Counts I, II, and III should be dismissed.

2. Mr. Catalfamo fails to plead facts fatal to his 1981 Claims in the alternative.

There can be no doubt that Federal Rule of Civil Procedure 8(d) allows Mr. Catalfamo to plead alternative or inconsistent claims within a complaint. However, if a plaintiff fails to plead inconsistent *facts* in the alternative, those plead facts are treated as judicial admissions, and if one non-alternatively plead fact is fatal to one of the claims, that claim should be dismissed under Rule

12(b)(6). *Maloney v. Scottsdale Ins. Co.*, 256 F. App'x 29, 31 (9th Cir. 2007); *Hammock v. Res-Care, Inc.*, No. 1:19-cv-04808-RLY-MJD, 2021 U.S. Dist. LEXIS 205562, at *6 (S.D. Ind. Jan. 25, 2021) (“factual inconsistencies [must be] pleaded in the alternative, not in tandem”) (citing *Holman v. Indiana*, 211 F.3d 399, 409 (7th Cir. 2000); *Boyd v. Larregui*, Civil Action No. 3:19-cv-579(CSH), 2020 U.S. Dist. LEXIS 180329, at *10 (D. Conn. Sep. 30, 2020) (“a party may not plead inconsistent facts within the same claim”). Mr. Catalfamo’s factual allegations supporting his race discrimination and retaliation, disability discrimination, and worker’s compensation retaliation claims are not plead in the alternative. Instead, all allegations are incorporated into all counts. Given Mr. Catalfamo’s factual allegations as to disability discrimination and worker’s compensation retaliation (Paragraphs 32 through 38 and 54 of the First Amended Complaint) being the cause of his discharge are incorporated into his 1981 Counts by Paragraphs 58, 66, and 76, and those 1981 Counts require pleading of but-for causation, this failure to plead in the alternative is fatal to Plaintiff’s 1981 Claims.

III. CONCLUSION

For the reasons set forth herein, Defendants respectfully move that this Court dismiss Counts I, II, and III of the First Amended Complaint, alleging violations of 42 U.S.C. §1981 claim with prejudice. Defendants request that this dismissal be with prejudice because the facts inconsistent with but-for causation should be treated as judicial admissions fatal to a Section 1981 claim, something that an amended complaint cannot cure.

[signature follows]

Respectfully submitted,

O'HAGAN MEYER

Date: November 20, 2025

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CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of November, 2025, I caused a true and correct copy of the foregoing **Partial Motion to Dismiss Counts I, II, and III of Plaintiff's First Amended Complaint** to be filed with the Clerk of the Court via the Electronic Filing System and to be served upon counsel of record listed below:

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