

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2020-000574-CA-01

SECTION: CA13

JUDGE: Javier A. Enriquez

DONALD COLAS et al

Plaintiff(s)

vs.

LEXINGTON NATIONAL INSURANCE CORPORATION et al

Defendant(s)

_____ /

**ORDER GRANTING DEFENDANT, KENT THOMAS' MOTION TO DISMISS
PLAINTIFFS' FIFTH AMENDED COMPLAINT WITH PREJUDICE**

THIS CAUSE having come before the Court on November 26, 2025, upon the *Defendant, Kent Thomas' Motion to Dismiss Plaintiffs' Fifth Amended Complaint with Prejudice* [D.I.N. 714], and the Court having read the motion and *Plaintiffs' Response in Opposition to Defendant Huggins [sic] Motion to Dismiss* [D.I.N. 726], the Plaintiff's Fifth Amended Complaint, this Court's Orders of May 29, 2023 [D.I.N. 411], having heard argument from counsel for co-Defendant, Kent Thomas, Scott A. Ferris, Esq., and counsel for the Plaintiffs, Faudlin Pierre, Esq., and the Court being duly advised in the premises, it is hereupon ORDERED AND ADJUDGED that *Defendant, Kent Thomas' Motion to Dismiss Plaintiffs' Fifth Amended Complaint with Prejudice* [D.E. #714] is **GRANTED WITH PREJUDICE**.

I. PROCEDURAL BACKGROUND

1. The instant suit was initially filed on January 10, 2020, naming eight (8) defendants as parties to the suit, the movant, co-defendant Kent Thomas not being one of them. [D.I.N. 2]
2. Thomas was first added as a named Defendant to *Plaintiffs' Amended Complaint* [D.I.N. 75] and thereafter immediately filed *Defendant, Kent Thomas' Motion to Dismiss Plaintiffs' Amended Complaint* [D.I.N.148]. Defendant Thomas cited pleading deficiencies in derogation of Florida Rules of Civil Procedure 1.110(b) & (f) and 1.140(b)(6), as the basis for his motion.
3. This Court granted *Kent Thomas' Motion to Dismiss Plaintiffs' Amended Complaint* in part (as to Counts for Assault, Battery, Invasion of Privacy, Conversion and Negligence). [D.I.N.176]
4. Plaintiffs filed their *Second Amended Complaint* [D.I.N. 230] and thereafter Defendant filed *Defendant, Kent Thomas' (filed) his Motion to Dismiss and Verified Motion to Strike* (§§ 69., 72.m., 92.m. and 120.l. of) *Plaintiffs' Second Amended Complaint with Prejudice; Plus, Sanctions*. Defendant Thomas cited pleading deficiencies in derogation of Florida Rules of Civil Procedure 1.110(b) & (f) and 1.140(b)(6), as the basis for his motion.

5. In an order dated May 29, 2023, Judge Gina Beovides granted Thomas' motion in part, dismissing counts asserted by Plaintiffs against Thomas for False Imprisonment, Assault, Trespass and Invasion of Privacy, without prejudice to amend. Judge Beovides' order stated in relevant part that "Plaintiffs' Third Amended Complaint shall discern which Plaintiff is alleging that certain cause of action against Thomas and how Thomas violated that individual's Plaintiff's rights." [D.I.N. 411]

6. On July 17, 2023, Plaintiffs filed their *Third Amended Complaint* [D.I.N. 425]. Thereafter, Defendant Thomas filed *Defendant, Kent Thomas' Motion to Dismiss, and/or, Strike Plaintiffs' Third Amended Complaint with Prejudice*. Defendant Thomas cited pleading deficiencies in derogation of Florida Rules of Civil Procedure 1.110(b) & (f) and 1.140(b)(6), as the basis for his motion.

7. On February 29, 2024, this Court issued a superseding order regarding Defendant Kent Thomas's Motion to Dismiss Plaintiffs' Third Amended Complaint ("Order on Motion to Dismiss Third Amended Complaint").

8. The Order on Motion to Dismiss Third Amended Complaint, specifically states:

1. This order supersedes the Courts Order filed under Docket Index Number 425 (entered on February 9, 2024). This Order properly reflects the Court's oral pronouncement and the Court's original intent.

2. Defendant Thomas' Motion to Dismiss Plaintiffs' Third Amended Complaint is GRANTED with prejudice as to False Imprisonment, Trespass, and Invasion of Privacy.

3. Defendant Thomas' Motion to Dismiss Plaintiffs' Third Amended Complaint is DENIED as to Negligence, Civil Conspiracy and Civil Aid and Abetting.

4. That **Defendant Thomas' Motion to Dismiss Plaintiffs' Third Amended Complaint, specifically as to inadequately alleging the damages, for the remaining counts, caused by Defendant Thomas upon each of the four Plaintiffs is hereby GRANTED without prejudice. Plaintiff will have a final opportunity as to the remaining counts (Negligence, Civil Conspiracy and Civil Aiding and Abetting) to allege those damages caused by Thomas discerning *exactly how* Thomas violated the rights of *each* Plaintiff.**

5. Plaintiff may incorporate by reference, rather than restate all prior allegations in every count, pursuant to Florida law in their Fourth Amended Complaint.

6. **Defendant shall have twenty (20) days from the date of this Amended Order to file an answer.**

See Order on Motion to Dismiss Third Amended Complaint (emphasis added).

9. Notably, the above Order grants dismissal without prejudice "as to inadequately alleging the damages, for the remaining counts, caused by Defendant Thomas upon each of the four Plaintiffs."

10. On April 24, 2024, complying with the Order on Motion to Dismiss Third Amended Complaint, Thomas filed his answer to the dismissed Amended Complaint. [D.I.N. 531].

11. On January 8, 2025, Plaintiffs filed a document titled “Supplemental Pleading,” which aimed to comply with the Order on Motion to Dismiss Third Amended Complaint [D.I.N. 615]. Thomas, subsequently, filed a motion to dismiss this “Supplemental Pleading” [D.I.N. 627], asserting that it did not constitute an amended complaint, that it was untimely filed, legally insufficient, and that he was prejudiced by the late filing. In response, Plaintiffs argued that Thomas’s motion should be denied, they asserted that they had already stated a valid cause of action, and that their Supplemental Pleading complied with the Court’s directive to specify damages.

12. Thomas’ motion to dismiss the Plaintiffs’ “Supplemental Pleading” was heard by this Court on April 2, 2025, which resulted in an April 17, 2025 *Order Granting Defendant, Kent Thomas’ Motion to Dismiss Without Prejudice* [D.I.N 667], at which time, this Court ruled that, *inter alia*, the Plaintiffs’ Supplemental Pleading will not be deemed a Fourth Amended Complaint, and notably:

a. In order to have a clear operative pleading to which Thomas must respond, Plaintiffs may not incorporate prior pleadings by reference, in their Fourth Amended Complaint.

b. Consistent with the Court’s prior ruling, Plaintiff will have a final opportunity as to the remaining counts (Negligence, Civil Conspiracy and Civil Aiding and Abetting) to **allege those damages caused by Thomas discerning exactly how Thomas violated the rights of each Plaintiff.**

c. Failure to explain how Thomas violated the rights of each Plaintiff **will result in dismissal with prejudice.**

d. Time is of the essence, failure to comply with the deadlines herein may result in **dismissal with prejudice.**

See Order Granting Defendant, Kent Thomas’ Motion to Dismiss Without Prejudice (emphasis added).

13. On May 7, 2025, Thomas filed *Defendant, Kent Thomas’ Motion to Dismiss Plaintiffs’ Fourth Amended Complaint with Prejudice.* [D.I.N. 670]

14. On May 8, 2025, co-defendants Carrie Manhertz and Manhertz Bail Bonds, Inc., filed *Defendants Carrie Manhertz and Manhertz Bail Bond’s Motion to Dismiss Fourth Amended Complaint* [D.I.N. 671]. Co-defendant McKasey Huggins followed suit, filing *Defendant McKasey Huggins’ Motion to Dismiss Fourth Amended Complaint* [D.I.N. 672] the same day.

15. Co-Defendants, Manhertz, Manhertz Bail Bonds, Inc. and McKasey Huggins’ Motions to Dismiss Plaintiffs’ Fourth Amended Complaint were heard first, and on June 9, 2025, this Court dismissed *Plaintiffs’ Fourth Amended Complaint* [D.I.N. 687] and the grant of dismissal of the [Fourth Amended] Complaint, mooted *Thomas’ Motion to Dismiss Plaintiffs’ Fourth Amended Complaint with Prejudice.*^[1]

16. On June 26, 2025, Plaintiffs filed their *Fifth Amended Complaint.* [D.I.N. 699]

17. Subsequently, on July 14, 2025, Thomas filed *Defendant, Kent Thomas' Motion to Dismiss Plaintiffs' Fifth Amended Complaint with Prejudice* [D.I.N. 714], which the parties argued before this Court on November 25, 2025.

18. In response, Plaintiffs filed *Plaintiffs' Response in Opposition to Defendant Huggins {sic} Motion to Dismiss*. [D.I.N. 726].

II. LEGAL STANDARD

Florida Rules of Civil Procedure 1.140(b)(6) directs the Court to dismiss a claim for relief if it fails to state a cause of action. “It is the established rule that, upon a motion to dismiss a complaint for failure to state a cause of action, all material allegations of the complaint are taken as true . . . Those allegations are then reviewed in light of the applicable substantive law to determine the existence of a cause of action.” *Peeler v. Indep. Life & Acc. Ins. Co.*, 206 So. 2d 34, 36 (Fla. 3d DCA 1967).

However, a complaint that simply strings together a series of sentences and paragraphs containing legal conclusions and theories does not establish a claim for relief. *See* Fla. R. Civ. P. 1.110; *see e.g., Barrett v. City of Margate*, 743 So. 2d 1160, 1162-63 (Fla. 4th DCA 1999) (“It is insufficient to plead opinions, theories, legal conclusions or argument.”); *Maiden v. Carter*, 234 So. 2d 168, 170 (Fla. 1st DCA 1970) (“It is a fundamental principle of pleading that the complaint, to be sufficient, must allege ultimate facts as distinguished from legal conclusions which, if proved, would establish a cause of action for which relief may be granted.”).

In ruling on a motion to dismiss, it is appropriate for the Court to rely not just on the allegations in the complaint, but also on the exhibits to the complaint and the terms of agreements that are incorporated into the complaint by reference. *Fladell v. Palm Beach County Canvassing Bd.*, 772 So.2d 1240, 1242 (Fla. 2000); *see also Veal v. Voyager Prop. & Cas. Ins. Co.*, 51 So.3d 1246 (Fla. 2d DCA 2011) (“In this case, the complaint refers to the settlement agreement, and in fact, Veal’s standing to bring suit is premised on the terms of that agreement. Accordingly, since the company impliedly incorporates the terms of the agreement by reference, the trial court was entitled to review the terms of that agreement to determine the nature of the claim being alleged”); *One Call Property Service v. Security First Ins. Co.*, 165 So.3d 749 (Fla. 4th DCA 2015).

III. ANALYSIS

Plaintiffs fail to plead causes of action specific to Thomas, consistent with Fla. R. Civ. P. 1.110, in that most Plaintiffs’ allegations fail to allege a short and plain statement of the ultimate facts showing that the pleader is entitled to relief. When a complaint, as is the case in the matter *sub judice*, involves long, compound conduct or multiple persons in each count, Florida Rule of Civil Procedure 1.110(f) requires that all averments of claims or defenses be made in consecutively numbered paragraphs, with each paragraph limited to a single set of circumstances as far as practicable. Additionally, each claim predicated on a separate transaction or occurrence must be stated in a separate count to facilitate clarity and proper presentation. Fla. R. Civ. P. Rule 1.110.

Failure to comply with this rule, for instance, by commingling separate and distinct claims against multiple defendants on a single count, can result in dismissal of the complaint. *K.R. Exchange Services, Inc. v. Fuerst, Humphrey, Ittleman, PL*, 48 So.3d 889 (2010); *Collado v. Baroukh*, 226 So.3d 924 (2017). Commingling various claims against all defendants together may also warrant dismissal of a complaint. Fla. R. Civ. P. 1.110(f); *see also Aspsoft, Inc. v.*

WebClay, 983 So.2d 761, 768 (Fla. 5th DCA 2008) (commingling separate and distinct claims against multiple defendants warrants a dismissal of the complaint). Complaints containing disorganized, verbose, or narrative-style allegations, or those that fail to separate distinct claims against multiple defendants, may be dismissed with prejudice if the plaintiff repeatedly fails to cure the deficiencies despite being given opportunities to do so. *See Collado v. Baroukh*, 226 So.3d 924 (2017). For example, in *Barrett v. City of Margate*, the court affirmed the dismissal of a complaint with prejudice due to the plaintiff's refusal to comply with Rule 1.110(b) and the trial court's directives. *Barrett v. City of Margate*, 743 So.2d 1160 (1999). Similarly, in *Collado v. Baroukh*, the court dismissed a complaint for commingling separate claims against multiple defendants in violation of Rule 1.110(f). *Collado v. Baroukh*, 226 So.3d 924 (2017).

Here, the Plaintiffs use the individual acts of multiple co-defendants to bolster the causes of action asserted against Thomas alone and in his individual capacity. Stated differently, the predicate acts which form the basis for the claims asserted against Thomas are the collective actions of the entire group of co-defendants acting in concert. The operative pleading, as drafted, fails to explicitly allege how the actions of Thomas and Thomas alone proximately caused the damages incurred by each of the Plaintiffs individually. The Florida Supreme Court has emphasized that "conditioning liability on a determination of proximate causation, as opposed to mere but-for causation, is one of the most basic principles of tort law." *Peoples Gas System v. Posen Construction, Inc.*, 322 So.3d 604 (2021).

The proximate causation element "is concerned with whether and to what extent the defendant's conduct foreseeably and substantially caused the specific injury that actually occurred" *McCain v. Florida Power Corp.*, 593 So.2d 500 (1992); *see also, Serrano v. Dickinson*, 363 So.3d 162 (2023). The claims asserted by Plaintiff here fail to allege exactly how Thomas' individual actions during the transaction from which the instant suit arises were the proximate cause for damages alleged by Plaintiffs, what damages were occasioned by the predicate acts, and as such fail to state legally cognizable causes of action in each instance. Given that this Court has given the Plaintiffs ample opportunity to amend its pleading to assert a legally cognizable cause of action and admonished Plaintiffs that any further dismissal of the operative pleading would be granted with prejudice, dismissal here is with prejudice.

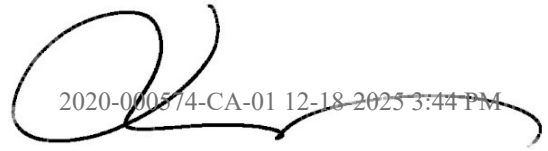
IV. CONCLUSION

Based on the foregoing, it is hereby ORDERED and ADJUDGED that *Defendant, Kent Thomas' Motion to Dismiss Plaintiffs' Fifth Amended Complaint with Prejudice* as to Kent Thomas is **GRANTED WITH PREJUDICE**. Plaintiffs will not have to amend their *Fifth Amended Complaint* as to the remaining Defendants. All Defendants who have not yet answered Plaintiffs' cause of action, must do so within ten (10) days of the date of this Order.

[1]

In its July 14, 2025, Order Granting co-defendants Carrie Manhertz, Manhertz Bail Bonds, Inc and McKasey Huggins' Motions to Dismiss, this court admonished the Plaintiffs as follows: "The Court rules that this will be the final amendment that will be permitted to the Complaint, and any further dismissals of this case will be with prejudice."

DONE and **ORDERED** in Chambers at Miami-Dade County, Florida on this 18th day of December, 2025.



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Hon. Javier A. Enriquez

CIRCUIT COURT JUDGE

Electronically Signed

No Further Judicial Action Required on **THIS MOTION**

CLERK TO **RECLOSE** CASE IF POST JUDGMENT

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