

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

Christopher Roller,

Case No.: 27-CV-09-22812

Plaintiff,

vs.

**Defendants Alexander Gese's and
Bosley, Inc.'s Memorandum in
Support of Motion To Dismiss
Complaint**

Wagner, Falconer & Judd, Ltd(WFJ) via Prepaid
Legal c/o Dan Smith

Honorable Judge Mark Boris via WFJ and
Bosley and State of Minnesota

Attorney Alexander Gese via Bosley,

Defendant.

FACTUAL BACKGROUND

Plaintiff Christopher Roller ("Roller") has commenced this action against three separate and unconnected defendants, (1) Wagner, Falconer & Judd Ltd ("Wagner"), alleged to be a provider of "Prepaid Legal," which Roller says provided or denied him legal services, (2) Honorable Judge Mark Boris, alleged to be a Conciliation Court Judge that ruled against Roller on his claim against Bosley, Inc., concerning "my hair transplants," (3) Bosley, alleged to be the provider of Roller's hair transplants,¹ and (4), Alexander Gese, identified in the caption as "via Bosley."² In fact, Mr. Gese represented

¹ Bosley refers to Bosley, Inc., the management company to the Bosley Medical Group affiliate that provided hair transplants.

² Complaint at p. 1. Although the Complaint pages are not numbered, reference is to the pages in their actual numerical order.

Bosley, Inc., in the referenced conciliation court matter and was himself named as a defendant there.³

Roller, who describes himself to be Jesus/God/Holy Spirit,⁴ states that his Amended Complaint is about conflict of interest, attempted murder, and molestation, “all against the defendants.”⁵ Boiled down to some kind of rational essence, Roller lost a conciliation court claim and failed to appeal it on time. While conceding he may not have properly filed his appeal “in a timely manner,”⁶ Roller concludes that “there had been a huge conflict of interest with the attorneys for Bosley (Alexander Gese), WJF, Judge Boris, and administrators of the Burnsville post office for interrupting my quest for legal justice.” In addition, the named defendants are alleged to have “also been part of ... plots to assassinate me,”⁷ and that (Roller) is “under the impression that my daughter has been molested by Dan Smith (an attorney at Wagner), Alexander Gese and (Conciliation Judge) Mark Boris during the past year, sometime, somehow, somewhere.”⁸ The last two wrongs are described as “felony behavior.”⁹

For relief in this Complaint, Roller requests “answers to these felony accusations and to get compensated for the conflict of interest that prevented me from seeing

³ Roller initially sued Bosley Medical Group (Bosley, Inc.) for infringing his “pseudo-patent” in federal court. Alexander Gese represented Bosley and got Roller to voluntarily dismiss the Complaint. Roller v. Bosley Medical Group, U.S. Dist. Ct. (Minn.) Civil Action No. 07-01296. Subsequently, Roller brought a Conciliation Court claim against Bosley and Mr. Gese in Hennepin County seeking reimbursement for the cost of his hair transplants. Case No. 080327031. He was awarded no money against Bosley and the claim against Mr. Gese was dismissed with prejudice on July 22, 2008.

⁴ Complaint at p.1

⁵ Complaint at p. 1.

⁶ Complaint at p. 2.

⁷ Complaint at p. 4.

⁸ Complaint at p. 4.

⁹ Complaint at p. 6.

justice.”¹⁰ “I am suing WFJ, and each of the parties involved, for \$1 trillion for fraud (conflict of interest), attempted murder of Chris Roller by the defendants, and the molestation of my daughter by the defendants.”¹¹ He did not allege specific wrongdoing by Bosley, Inc., in its own right or claim separate relief.

ARGUMENT

A. Plaintiff’s Complaint Fails to State a Claim.

1. Legal Standard for analyzing the Complaint.

A claim is subject to dismissal under Minn. R. Civ. Pro. 12.02(e) when the plaintiff does not set forth a legally sufficient claim for relief. *Krueger v. Zeman Const. Co.*, 758 N.W. 2d 881 (Minn. App. 2008). The statement of entitlement to relief must go beyond “labels and conclusions” or the “speculative” presentation of a claim. *Hebert v. City of Fifty Lakes*, 774 N.W. 2d 226, 235 (Minn. 2008) (citing favorably to the standard for considering the federal equivalent Rule 12 (b)(6) motions to dismiss set forth in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-557 (2007)). See also, *Bahr v. Capella University*, 765 N.W. 2d 428 (Minn. Ct. App. 2009).

The U.S. Supreme Court subsequently elaborated on its *Twombly* holding in *Ashcroft v. Iqbal*, ___ U.S. ___, 129 S.Ct. 1937 (2009). *Iqbal* requires a complaint to contain sufficient factual matter to make it plausible, not merely possible, on its face:

To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to “state a claim to relief that is **plausible** on its face.” A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the

¹⁰ Complaint at p. 6.

¹¹ Complaint at p. 7

defendant is liable for the misconduct alleged. The plausibility standard is not akin to a “probability requirement,” but **it asks for more than a sheer possibility** that a defendant has acted unlawfully. Where a complaint pleads facts that are “merely consistent with” a defendant’s liability, it “stops short of the line between possibility and plausibility of ‘entitlement to relief.’ ”

...
Determining whether a complaint states a plausible claim for relief will ... be a context-specific task that **requires the reviewing court to draw on its judicial experience and common sense**. But where the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged—but it has not “show[n]”—“that the pleader is entitled to relief.”

Id. at 1949 – 50 (internal citation omitted).

Similarly, two Minnesota cases offer analogous standards for sufficient pleading of an Answer:

A frivolous answer is one which is so glaringly insufficient as a defense that the court can determine its insufficiency upon bare inspection, without argument; one that does not in any view of the facts pleaded present a defence to the action.

Meuwissen v. H.E. Westerman Lumber Co., 16 N.W.2d 546, 548 (Minn. 1944).

An answer is frivolous which appears from a bare inspection to be lacking in legal sufficiency and which in any view of the facts pleaded does not present a defense.

Neefus v. Neefus, 296 N.W. 579, 581 (Minn. 1941).

2. Plaintiff Roller has not stated any cognizable civil claims.

Plaintiff Roller’s unsubstantiated assertions that Alexander Gese has attempted to assassinate or murder him are wholly unsupported by any supporting facts. Further, assuming that such an infamous assertion was true, it invokes a criminal remedy, not a

civil cause of action. There isn't a hint of a threatened assault or battery or other related theory of recovery recognized in Minnesota.

The same analysis applies to Roller's wholly reckless and libelous assertion that Alexander Gese individually or collectively molested Roller's daughter (if he has one). He says he is "under the impression" his daughter has been molested and that "I'm hoping that this lawsuit while documenting it publicly in a blog, that this case can get to discovery, to find out if this is actually happening."¹² He offers no facts whatsoever that support his conclusion and admits he doesn't know if it occurred at all. **This accusation of an alleged crime does not come close to presenting a civil cause of action recognized in Minnesota.**

Lastly, Roller's assertion that Alexander Gese (and, at most, inferentially Bosley, Inc.) has been a participant in a conflict of interest is entirely baseless. Roller fails to allege that Mr. Gese has ever represented him or in any other way owed him a duty of care related to legal representation. A conflict of interest allegation in a legal representation context must be asserted pursuant to the rules of the Minnesota Lawyers Professional Responsibility Board, and Minnesota Rules of Professional Conduct, or to a Court in which a legal proceeding is already pending. Alternatively, it might be the basis for a legal malpractice claim if the claimant was a client. There are no facts or allegations that even hint that any of these possible remedies may be invoked in the present matter.

¹² Complaint at p. 5.

3. The Complaint is entirely frivolous and presented for the improper purpose of harassment and incurring needless cost in violation of Minn. R. Civ. Pro. 11 and Minn. Stat. §549.211

Contrary to Minn. R. Civ. Pro. 11 and Minn. Stat. §549.211, Roller's Complaint is unsigned and, on its face, is not presented for any proper purpose. By its content, it is intended to harass and embarrass Alexander Gese (and presumably, Bosley, Inc.), impugn his good name and cause him to incur needless costs of litigation. Without waiving the right to later do so, it should be noted that Alexander Gese has not brought a Rule 11 motion at this time despite ample grounds to do so. In the event that Roller continues to pursue his so-called claims herein, Mr. Gese and Bosley, Inc., reserve the right to seek sanctions under Minn. R. Civ. Pro. 11 and Minn. Stat. §549.211.

CONCLUSION

Even if one were to take Roller's allegations as "true," his Complaint does not state cognizable claims as a matter of law. No amount of amending or repleading can correct the flaws in his attempted claims. The Complaint should be dismissed with prejudice as to defendants Alexander Gese and Bosley, Inc.

Respectfully, submitted,

DATED: October 19, 2009

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

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