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**IN THE THIRD JUDICIAL DISTRICT COURT
SALT LAKE COUNTY, STATE OF UTAH**

JEFFREY D. GASTON,

Gaston,

v.

JASON HALL, an individual; NATALIE HALL, an individual; GEORGE SCHLIESSER, an individual; WOODCRAFT MILL & CABINET INC., a Utah corporation; and BLUFFDALE CITY, a municipality of the State of Utah,

Defendants.

**REPLY IN SUPPORT OF DEFENDANTS'
JOINT MOTION TO DISMISS SECOND
AMENDED COMPLAINT**

Case No: 230905528

Judge Chelsea Koch

Defendants Jason Hall, Natalie Hall, George Schliesser, and Woodcraft Mill & Cabinet Inc. (collectively, “**Defendants**”), through their respective counsel, and pursuant to Rules 7(c) and 12(b)(6) of the Utah Rules of Civil Procedure, submit this Reply Memorandum in support of their Joint Motion to Dismiss Second Amended Complaint (“**Reply**”), responding to Plaintiff Jeffrey D. Gaston’s (“**Plaintiff**”) Memorandum Opposing Defendants’ Motion to Dismiss (“**Opposition**”).

ARGUMENT

Plaintiff’s Opposition fails to cure the fundamental deficiencies in the Second Amended Complaint (“SAC”). In arguing against dismissal, Plaintiff repeatedly invokes Utah’s notice pleading standard, however, he cannot avoid the requirement that a complaint allege non-conclusory facts meeting each element of each claim against each individual defendant. *See Howard v. PNC Mortg.*, 2012 UT App 19, ¶ 2, 269 P.3d 995, 997. The SAC’s repeated use of conclusory language (*i.e.*, “Defendants intended to cause harm”) without supporting factual detail, does not satisfy this standard. Similarly, Plaintiff’s pervasive use of group pleading results in a failure to distinguish the conduct and intent of each individual Defendant. *See Utah R. Civ. P. 8; see also Robbins v. Oklahoma*, 519 F.3d 1242, 1250 (10th Cir. 2008) (“Given the complaint’s use of either the collective term ‘Defendants’ or a list of the defendants named individually but with no distinction as to what acts are attributable to whom, it is impossible for any of these individuals to ascertain what particular unconstitutional acts they are alleged to have committed.”). For each cause of action, Plaintiff failed to plead with sufficient particularity how each Defendant personally engaged in conduct that satisfies the elements of these torts.

I. Battery: No Support for Allegation of Intent to Make Harmful Contact

Plaintiff’s battery claim as alleged in the SAC against Mr. Hall is based on the Old West Days (“OWD”) incident. In his Opposition, Plaintiff emphasizes the allegations that Mr. Hall

“attacked Gaston,” by throwing “campaign signs at Gaston,” and “admitted to the attack and attempted to apologize for his actions.” (Opp’n at 4.) But these unsupported conclusory allegations do not show Mr. Hall threw campaign signs with the intent to make harmful or offensive contact with Gaston, or that he believed that such contact was substantially certain to occur. The SAC also provides that Mr. Gaston “retreated to a point significantly removed” from Mr. Hall before the sign was thrown, indicating distance between the two individuals. (SAC ¶ 77.) This distance makes it even more difficult for Plaintiff to allege that Mr. Hall threw the signs with the specific purpose to harm Gaston.

II. Civil Assault: No Imminent Apprehension of Harm or Intent

Plaintiff has put forward two separate and distinct theories of liability for civil assault. (*See* SAC ¶ 224 (“Mr. Hall, through his conduct at OWD in the manner described above, intended to cause harmful or offensive conduct with Gaston, or at the very least, intended to cause imminent apprehension of harmful or offensive conduct to Gaston.”); SAC ¶ 227 (“Hall Defendants, through the creation and delivery of the threatening communications described more fully above, intended to cause Gaston to suffer imminent apprehension of harmful contact or death.”).)¹

As to the first theory, the Opposition does not address the lack of factual allegations showing that Mr. Hall intended to place Plaintiff in imminent apprehension of harmful contact. Gaston cannot claim that he experienced imminent apprehension of contact where he also claims that he was “significantly removed” from Mr. Hall. (SAC ¶ 77.)

As to the second theory, Plaintiff argues that Mr. Hall’s alleged battery at OWD is somehow attributable to the other Defendants. (*See* Opp’n at 7 (“[I]n addition to written communications,

¹ Plaintiff also alleges that Mr. Schliesser is liable, under this second theory, because he delivered threatening communications at the direction of the Hall Defendants. (SAC ¶¶ 28-29.)

Mr. Hall physically attacked Gaston at a public event[.]”); *id.* (concluding that, when considered together, this “could reasonably lead to the imminent apprehension” required).) But neither Mrs. Hall, Mr. Schleisser, nor Woodcraft is mentioned in the first theory of liability as that exclusively involved the allegation that Mr. Hall physically attacked Mr. Gaston. For Plaintiff to succeed in alleging claims against *all* Defendants, Plaintiff is required to plead facts sufficient to give show the existence of *all* the elements of civil assault under this second theory. Plaintiff has not demonstrated or even alleged that Mrs. Hall, Mr. Schliesser, or Woodcraft were involved in the alleged assault in any way. Plaintiff therefore cannot argue that the civil assault claims for these other Defendants include the physical altercation.

Considering the second theory on its own, Plaintiff’s civil assault claim as it relates to Mrs. Hall, Mr. Schliesser, and Woodcraft fails as a matter of law. Plaintiff has not provided the Court with any case that contradicts the clearly established caselaw that written or verbal threats, even if personally delivered, do not create “imminent apprehension” of immediate harm. (*See* Motion at 13 (citing cases); *see also* Restatement (Second) of Torts § 31 (1965) (“[M]ere words, unaccompanied by some act apparently intended to carry the threat into execution, do not put the other in apprehension of an imminent bodily contact[.]”).) Plaintiff’s generalized fear of future harm, based on the alleged communications is not actionable as assault. Plaintiff appears to tacitly agree with this point, as he fails to address this argument without the inclusion of the physical confrontation at OWD. (*See* Opp’n at 6-7.)

III. Intentional Infliction of Emotional Distress

Plaintiff’s IIED claim is based on the cumulative effect of the OWD incident and the alleged threatening communications. As it pertains to Mr. Hall, Plaintiff cannot show that the conduct alleged—insults, written threats, and a single physical altercation, resulting in a minor

injury—amounts to the level of “outrageous,” or “atrocious and utterly intolerable” conduct. *See Prince v. Bear River Mut. Ins. Co.*, 2002 UT 68, ¶ 38, 56 P.3d 524.

Plaintiff makes no attempt to distinguish Defendants’ primary case on this topic, *Westbrook*. In that case, a particularly athletic professional basketball player told a fan, who was just feet away: “I’m going to say one thing. I’ll fuck him up. . . . I promise you. You think I’m playing. I swear to God. I swear to God, I’ll fuck you up, you and your wife, I’ll fuck you up, . . . I promise you on everything I love, on everything I love, I promise you.” *Keisel v. Westbrook*, 2023 UT App 163, ¶ 7, 542 P.3d 536. This did not meet the extreme and outrageous threshold. *Id.* ¶ 76. And neither do the alleged communications, gag gifts, and throwing of campaign signs, especially considering the political context in which this conduct arose.

As to the other Defendants, the SAC fails to allege specific facts showing that they had any involvement in the alleged physical confrontation, and it fails to explain how each Defendants is tied to the same collective conduct as the other Defendants. Mrs. Hall, Mr. Schliesser, and Woodcraft are not tied to the allegations against Mr. Hall. This is particularly important where written or verbal threats—especially those that are conditional, vague, and/or unaccompanied by an immediate ability to carry them out—do not, by themselves, meet the “outrageous or intolerable” threshold for IIED. *See Franco v. The Church of Jesus Christ of Latter-day Saints*, 2001 UT 25, ¶ 25, 21 P.3d 198. Additionally, Plaintiff has not demonstrated the requisite intent, to cause emotional distress, as to each individual Defendant, and the conclusory group pleading is insufficient. Plaintiff, therefore, has failed to sufficiently plead the IIED claim to these Defendants.

IV. Civil Conspiracy

Plaintiff has forfeited the intra-corporate doctrine argument by failing to address it in his Opposition, and thus, Plaintiff should be prohibited from recovering under his civil conspiracy

claim. Plaintiff's claim is based, at least in part, on allegations that Mr. Schliesser, as an employee of Woodcraft, *conspired* with Woodcraft's owners, Mr. and Mrs. Hall. This theory of recovery is barred by the intra-corporate doctrine, as described in Defendants' Motion. (*See* Motion at 24-25.)

Additionally, there are insufficient facts to show that any combination of Defendants intended to harass, intimidate, threaten, or otherwise cause Plaintiff to experience severe emotional distress. Moreover, the SAC fails to allege specific facts showing a "meeting of the minds" or agreement among Defendants. Mere parallel conduct, employment relationships, or conclusory statements of agreement do not suffice. *See Pyper v. Reil*, 2018 UT App 200, ¶ 16, 437 P.3d 493. The conspiracy claim should therefore be dismissed.

V. Vicarious Liability

Plaintiff's argument that scope of employment is a jury question ignores the requirement that the alleged conduct must be of the general kind the employee is employed to perform and motivated, at least in part, by a purpose to serve the employer. *See Drew v. Pac. Life Ins. Co.*, 2021 UT 55, ¶ 56, 496 P.3d 201. Delivering threatening packages to a political opponent is not within the scope of any legitimate business purpose for a cabinet company. The SAC's assertion that Woodcraft "ratified" the conduct are conclusory and unsupported by specific alleged facts.

VI. Plaintiff's Alternative for Leave to Amend

Plaintiff requests leave to amend if the Court finds any pleading deficiencies. Any amendment, however, would be futile unless Plaintiff can allege specific, non-conclusory facts to cure the deficiencies identified above. Plaintiff has already amended his complaint multiple times without remedying these defects.

CONCLUSION

Plaintiff has failed to state any claim against Defendants upon which relief may be granted.

Consequently, and pursuant to Utah Rule of Civil Procedure 12(b)(6), the Court should dismiss the SAC with prejudice.

DATED this 22nd day of August, 2025.

DENTONS DURHAM JONES PINEGAR

/s/ Jacob R. Lee

Trinity Jordan

Lyndon R. Bradshaw

Jacob R. Lee

*Attorneys for Jason Hall, Natalie Hall, &
Woodcraft Mill & Cabinet Inc.*

DATED this 22nd day of August, 2025.

THE KITTRELL LAW FIRM

/s/ Joel Kittrell*

Joel J. Kittrell

*Affixed with permission

Attorney for Defendant George Schliesser

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of August, 2025, I caused a true and correct copy of the foregoing **REPLY IN SUPPORT OF DEFENDANTS' JOINT MOTION TO DISMISS SECOND AMENDED COMPLAINT** to be filed using the Court's electronic filing system, which sent notice to all counsel of record.

/s/ Molly Mallard