

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

MAHMOUD REZA BANKI,

Plaintiff,

v.

Case No. 3:24-cv-464-TJC-MCR

BANK OF AMERICA, N.A.,

Defendant.

ORDER

Before the Court is Defendant Bank of America, N.A.’s Motion to Dismiss the Complaint (Doc. 23), to which Plaintiff Mahmoud Reza Banki responded in opposition (Doc. 27). Under established pleading standards, the Court must accept Plaintiff’s well-pleaded allegations as true. Taken as such, both Counts I and II state a cause of action. Defendant Bank of America relies too much on matter outside the four corners of the complaint, the import of which is in dispute.

However, the Court will require Plaintiff to file an amended complaint to accomplish two things: First, by incorporating “all prior paragraphs” in Count II, Plaintiff has violated the prohibition against a “shotgun pleading.” See, e.g., Strategic Income Fund, LLC v. Spear, Leeds & Kellogg Corp., 305 F.3d 1293, 1295 (11th Cir. 2002). Only pertinent allegations should be incorporated by reference into each count. Second, the Court, sua sponte, determines that

certain allegations are both unnecessary to state a claim and potentially inflammatory. The Court directs Plaintiff to omit paragraphs 42-44 from his amended complaint.

The Court emphasizes that it is ruling only in the context of a motion to dismiss. The Court is making no determination whether the facts concerning Plaintiff's criminal conviction may become pertinent in later phases of the case.

Accordingly, it is hereby

ORDERED:

1. Defendant's Motion to Dismiss (Doc. 23) is **DENIED**.
2. Plaintiff shall file an amended complaint no later than **February 19, 2025**.
3. Defendant will answer the amended complaint no later than **March 14, 2025**.
4. The parties' Case Management Report is overdue and shall be filed no later than **February 19, 2025**. See Notice (Doc. 9).
5. Plaintiff's request for oral argument (Doc. 28) is **DENIED**.

DONE AND ORDERED in Jacksonville, Florida this 24th day of January, 2025.



Timothy J. Corrigan

TIMOTHY J. CORRIGAN
Senior United States District Judge

s.
Copies:
Counsel of record