

8CVCAP

IN THE IOWA DISTRICT COURT IN AND FOR JEFFERSON COUNTY

KORYNN TJADEN DICKEY
SHAWNA LYN CHRISTY
ALLEN HUSTED

Plaintiffs

MARK ANDREW MYERS
ADRIAN JEREMY DICKEY

Defendants

08511 CVEQ004601

ORDER RE: MOTION TO DISMISS

This matter came before the Court on Monday, August 28, 2023, on Defendant, Jefferson County Treasurer, Mark Andrew Myers Pre-Answer Motion to Dismiss.

Present for hearing were Plaintiffs Shawna Christy and Allen Husted and their counsel counsel Siobhan Briley. Defendant Myers was present represented by Jefferson County Attorney Chauncey Moulding and Assistant Jefferson County Attorney Elizabeth Estey. Counsel waived record and the Court considered arguments. Defendant Adrian Dickey was also personally present with his attorney Paul Miller, though they did not file a separate motion to dismiss. Mr. Dickey supported Defendant Myers' application.

Under Iowa law, generally, a motion to dismiss should not be granted. *Weizberg v. City of Des Moines*, 923 N.W.2d 200, 217 (Iowa 2018). Nearly every case will survive a motion to dismiss under notice pleading. *U.S. Bank v. Barbour*, 770 N.W.2d 350, 353 (Iowa 2009). A court should grant a motion to dismiss only if the petition on its face shows no right of recovery under any state of facts. *Id.* (quoting *Trobaugh v. Sondag*, 668 N.W.2d 577, 580 (Iowa 2003)) (internal quotations omitted).

In considering a motion to dismiss, the Court takes the well-pleaded facts of the petition as true. *Mormann v. Iowa Workforce Dev.*, 913 N.W.2d 554 (Iowa 2018). However, a petition must contain factual allegations that give the defendant fair notice of the claim asserted so the defendant can adequately respond to the petition. *Barbour*, 770 N.W.2d at 354 (quoting *Rees v. City of Shenandoah*, 682 N.W.2d 77, 79 (Iowa 2004)).

Based on the very low bar Plaintiffs are required to clear to survive a Motion to Dismiss, the Court denies Defendant Myers' request with respect to Count I, Failure to Perfect a Security Interest.

Plaintiffs' counsel rightfully identifies that there was not a signature on the Affidavit for Notation of Security Interest. A reasonable fact finder could conclude that Defendant Adrian Dickey signed Plaintiff Korynn Dickey's name to the document and that a cause of action could be supported against Mr. Myers if every assertion Plaintiffs' Count I allegation is true.

However, with respect to Count 3, civil conspiracy, the Court finds that the petition does not contain factual allegations that give the defendant (Myers) fair notice of the claim asserted so he can adequately respond to the petition. Count III as is relates to Defendant Myers is dismissed without prejudice with any court costs assessed to Plaintiffs.

Accordingly, Motion is denied in part and granted in part.

SO ORDERED.



State of Iowa Courts

Case Number
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Type:

Case Title
DICKEY, KORYNN VS DICKEY, ADRIAN
OTHER ORDER

So Ordered

A handwritten signature in blue ink, appearing to read "Shawn Showers".

Shawn Showers
Judge

Electronically signed on 2023-08-28 10:24:34