

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
FLORIDA, PANAMA CITY DIVISION

Emory Brooks Conner v. Walmart Tire & Lube Center

Conner v. Walmart Tire & Lube Center · No. 5:25cv271/RH/ZCB · Decided April 17, 2026

SUMMARY

This Report and Recommendation addresses a defendant’s motion for judgment on the pleadings in a pro se diversity action arising from alleged vehicle damage, personal injuries, and emotional distress. The court recommends dismissing Counts III and IV of the third amended complaint, concluding that the economic-damages claim is not an independent cause of action and is duplicative to the extent it asserts negligence, while the emotional-distress claims are inadequately pleaded. The recommendation leaves Counts I and II for further proceedings.

CASE DETAILS

COURT	United States District Court for the Northern District of Florida, Panama City Division
WRITING FOR THE COURT	Zachary C. Bolitho
JURISDICTION	United States District Court for the Northern District of Florida, Panama City Division
DECIDED	April 17, 2026
DOCKET	5:25cv271/RH/ZCB
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved for judgment on the pleadings under Federal Rule of Civil Procedure 12(c) as to Counts III and IV of Plaintiff's third amended complaint. The magistrate judge issued a Report and Recommendation recommending that the motion be granted and those counts be dismissed.
STANDARD OF REVIEW	A motion for judgment on the pleadings under Rule 12(c) is governed by the same standard as a Rule 12(b)(6) motion. The court accepts well-pleaded factual allegations as true and asks whether the complaint contains sufficient factual matter to state a plausible claim for relief.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Emory Brooks Conner v. Walmart Tire & Lube Center

TOPICS

motion for judgment on the pleadings pleadings negligent infliction of emotional distress
intentional infliction of emotional distress negligence

PRACTICE AREAS

civil procedure negligence emotional distress pleading standards remedies

QUESTIONS PRESENTED

1. Whether Count IV stated an independent cause of action for economic damages under Florida law.
2. Whether, to the extent Count IV asserted negligence based on missing a business meeting, it was duplicative of Count I.
3. Whether Count III plausibly stated a negligent infliction of emotional distress claim under Florida's impact rule.
4. Whether Count III, construed to include an intentional infliction of emotional distress claim, plausibly alleged extreme and outrageous conduct.

HOLDINGS

1. Economic damages are a form of monetary relief and do not constitute an independent cause of action; they must be sought in conjunction with a substantive claim.
2. To the extent Count IV asserted negligence based on Plaintiff missing a business meeting because of damage to his truck, it was duplicative of Count I and should be dismissed.
3. Plaintiff failed to plausibly state a negligent infliction of emotional distress claim because the alleged verbal remark involved no physical impact and the complaint did not adequately allege a physical injury manifested by, and occurring within a short time of, the incident.
4. Even construing Count III as asserting intentional infliction of emotional distress, Plaintiff failed to plausibly allege extreme and outrageous conduct because an employee publicly yelling "alright Big Daddy," though possibly demeaning, did not go beyond all possible bounds of decency.

KEY QUOTATIONS

"At bottom, economic damages—like punitive damages—"are merely a remedy that must be asserted in conjunction with a substantive claim." (Section III.A)

"Because there was no physical impact or contact, the impact rule applies to Plaintiff's NIED claim." (Section III.B.1)

"In Florida, whether conduct is outrageous enough to support [an IIED claim] is a question of law to be decided by the courts at the earliest opportunity, not a question of fact for the jury." (Section III.B.2)

FACTUAL BACKGROUND

Plaintiff took his truck to Defendant's store for an oil change and alleged that employees negligently failed to install the engine oil cap, causing engine damage after he later cleaned the engine. He further alleged that the engine damage caused seatbelt sensors to malfunction, resulting in personal injury, and caused him to miss a business meeting and suffer economic losses. Plaintiff also alleged that an employee publicly yelled, "alright Big Daddy," causing emotional distress and aggravating unspecified preexisting injuries.

PROCEDURAL HISTORY

Plaintiff filed the action in Florida state court, and Defendant removed it to federal court based on diversity jurisdiction. Defendant answered and then moved to dismiss Counts III and IV; because the answer had already been filed, the court construed the motion as one for judgment on the pleadings under Rule 12(c). The Report and Recommendation recommends dismissal of Counts III and IV while recommitting the matter for further proceedings on Counts I and II.

DISPOSITION

other

REMAND INSTRUCTIONS

The matter should be recommitted to the magistrate judge for further proceedings on Counts I and II. The recommendation itself directs dismissal of Counts III and IV.

CASES CITED

- DeVillier v. Texas, 601 U.S. 285, 288 n.1 (2024)
- Jackson v. Williams Plant Services, LLC, No. 1:06cv1087, 2008 WL 11322913, at *3 (N.D. Ga. Dec. 22, 2008)
- Samara v. Taylor, 38 F.4th 141, 152 (11th Cir. 2022)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Hodges v. United States, 78 F.4th 1365, 1375 (11th Cir. 2023)
- Philip Morris USA, Inc. v. Hallgren, 124 So. 3d 350, 355 (Fla. 2d DCA 2013)
- Tarasewicz v. Royal Caribbean Cruises, No. 14-CIV-60885, 2015 WL 1566398, at *2 (S.D. Fla. Apr. 8, 2015)
- Letidas Logistics, LLC v. Citibank, N.A., 789 F. Supp. 3d 1121, 1131 (S.D. Fla. 2025)
- Malverty v. Equifax Information Services, LLC, 407 F. Supp. 3d 1257, 1265 (M.D. Fla. 2019)
- Willis v. Gami Golden Glades, LLC, 967 So. 2d 846, 850 (Fla. 2007)
- Tello v. Royal Caribbean Cruises, Ltd., 939 F. Supp. 2d 1269, 1277 (S.D. Fla. 2013)
- Pipino v. Delta Air Lines, Inc., 196 F. Supp. 3d 1306, 1316 (S.D. Fla. 2016)
- Wilchombe v. TeeVee Toons, Inc., 555 F.3d 949, 959 (11th Cir. 2009)
- Burgess v. Religious Technology Center, Inc., 600 F. App'x 657, 665 (11th Cir. 2015)
- Nickerson v. HSNi, LLC, No. 8:11cv538, 2011 WL 3584366, at *2 (M.D. Fla. Aug. 15, 2011)
- Corbin v. Prummell, 655 F. Supp. 3d 1143, 1167 (M.D. Fla. 2023)

- Whiddon v. Service Corporation International, 626 F. Supp. 3d 1243, 1245 (N.D. Fla. 2022)
- Plowright v. Miami-Dade County, 102 F.4th 1358, 1367-68 (11th Cir. 2024)
- Hutzell v. Franklin, No. 5:21cv40/RH/MJF, 2021 WL 3491754, at *1 (N.D. Fla. Aug. 9, 2021)
- Williams v. Worldwide Flight Services, Inc., 877 So. 2d 869, 870-71 (Fla. 3d DCA 2004)
- Lay v. Roux Laboratories, Inc., 379 So. 2d 451, 452 (Fla. 1st DCA 1980)

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