

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

SAMUEL LLOYD LEE, EXECUTOR of the	)	
ESTATE OF GEORGE HENRY LEE,	)	
	)	
Plaintiff,	)	
	)	
	)	CASE NO. SX-10-cv-483
v.	)	
	)	
	)	ACTION FOR DAMAGES
	)	
THE JUAN F. LUIS HOSPITAL AND	)	
MEDICAL CENTER through the	)	JURY TRIAL DEMANDED
GOVERNMENT OF THE VIRGIN	)	
ISLANDS and DR. COLERIDGE	)	
FRANKLIN,	)	
	)	
Defendants.	)	

MEMORANDUM OPINION

THIS MATTER is before the Court on Defendant Juan F. Luis Hospital's "Motion to Dismiss Pursuant to FRCP 12(b)(6)" and Plaintiff's Opposition thereto. For the reasons that follow, Defendant's Motion will be denied.

This case stems from an incident that allegedly occurred on April 26, 2009, where the Decedent George Henry Lee went to the Juan F. Luis Hospital complaining of abdominal pain, vomiting, and diarrhea. Plaintiff, the Executor of the Estate of Decedent, further alleges that the Defendants failed to conduct proper testing, and thus failed to properly diagnose, treat, or care for Decedent. Consequently, Decedent died from an undetected fish bone that had perforated his descending colon and protruded into his lower abdominal cavity the next day, on April 27, 2009, while in the Hospital.

Defendant filed its "Motion to Dismiss Pursuant to FRCP 12(b)(6)" on March 24, 2011, claiming that Plaintiff's complaint "provides vague and ambiguous conjectures" and therefore

the Defendant is “without knowledge to otherwise conclude or determine” how it allegedly injured Plaintiff.

Legal Standard

In determining whether to dismiss a complaint pursuant to Fed. R. Civ. Pro. 12(b)(6), the Supreme Court has recently held that:

While a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff's obligation to provide the grounds of his entitlement to relief requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do. Factual allegations must be enough to raise a right to relief above the speculative level, on the assumption that all the allegations in the complaint are true (even if doubtful in fact). *Bell Atlantic Co. v. Twombly*, 550 U.S. 544, 555, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007) (citations and footnote omitted); *see also Phillips v. County of Allegheny*, 515 F.3d 224, 234 (3d Cir.2008) (a plaintiff's factual allegations must be enough to raise a right to relief above the speculative level).

Most recently, in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), the U.S. Supreme Court held, “... 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 defendant is liable for the misconduct alleged.” *Id.* at 678. The Court further stated:

... two working principles underlie *Twombly*. First, the tenet that a court must accept a complaint's allegations as true is inapplicable to threadbare recitals of a cause of action's elements, supported by mere conclusory statements. Second, determining whether a complaint states a plausible claim is context-specific, requiring the reviewing court to draw on its experience and common sense. *Id.* at 663-664.

Analysis

In his complaint, Plaintiff clearly alleges wrongdoing over a period of time by the named Defendants, including several instances of misdiagnosis, as well as improper treatment of Mr. Lee's fatal ailment. Specifically, Plaintiff states that Mr. Lee presented to the hospital with various symptoms including nausea, diarrhea, and severe abdominal pain. Plaintiff further states that instead of performing any number of various scans or tests, the Hospital, as well as Doctor Franklin and a Doctor X misdiagnosed his condition as fish poisoning and treated him for dehydration. Plaintiff alleges that there were multiple times where the Defendants should have realized their mistake, and changed their course of treatment, but instead failed to do so. After Mr. Lee's death, Plaintiff claims that the Defendants attempted to cover up their mistake by refusing to conduct an autopsy, and stated that none was necessary, requiring Plaintiff to personally pay for the autopsy.

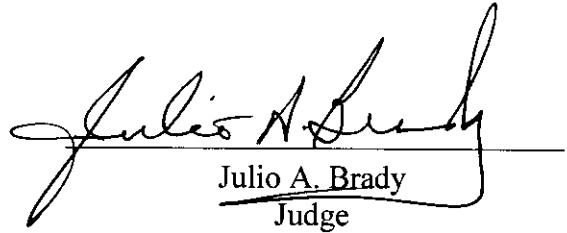
It is clear to this Court that these allegations, when accepted as truth, rise above being speculative in nature, and create a basis of relief that is sufficiently plausible to the Court, and is more than sufficient to provide the Defendants with the knowledge necessary to conclude how Plaintiff alleges the Defendants caused Mr. Lee's wrongful death. The complaint is fully sufficient and complies with the requirements of *Iqbal* and *Twombly*.

Conclusion

After review, based on the record, this Court is satisfied that the complaint is sufficiently pled, and is in compliance with the requirements the Supreme Court elucidated in *Iqbal* and *Twombly*. Plaintiff clearly alleges a basis for relief that rises well above the speculative level, when the allegations are taken as true. Thus, the Defendant's Motion to Dismiss Pursuant to Fed.

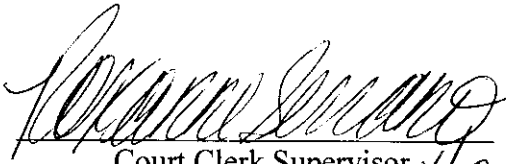
R. Civ. Pro. 12(b)(6) will be denied. A separate Order of even date will accompany this Memorandum Opinion.

Dated: April 24, 2012


Julio A. Brady
Judge

ATTEST:

VENETIA H. VELÁZQUEZ, ESQ.
Clerk of the Court

By: 
Court Clerk Supervisor 4/25/12