

Mark O. Morris (4636)
Snell & Wilmer L.L.P.
15 West South Temple, Suite 1200
Salt Lake City, UT 84101
Telephone: (801) 257-1900
Facsimile: (801) 257-1800
Email: mmorris@swlaw.com
Attorney for Defendant
True North of Utah, LLC

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

JLPR, LLC, a Utah limited
liability company;

Plaintiff,

vs.

Utah Department of Agriculture and Food,
Utah Division of Purchasing, General
Services, The State of Utah, Scott Ericson,
Kerry Gibson, Kelly Pehrson, Andrew Rigby,
Cody James, Natalie Callahan, Mellissa Ure,
Brandy Grace, Christopher W. Hughes, Mark
Anderson, Zac Christensen, Stephanie Casta,
Standard Wellness Utah, LLC, and True
North of Utah, LLC,

Defendants.

Case No. 2:21-cv-00436

**MOTION TO DISMISS ALL CLAIMS
AGAINST DEFENDANT TRUE NORTH
OF UTAH, LLC**

Hon. Ted Stewart

(Oral Argument Requested)

Defendant True North of Utah, LLC, (“**True North**”) moves the Court pursuant to Fed. R. Civ. P. 9(b) and 12(b)(6) to dismiss the Sixth Cause of Action, and only claim against Truth North in JLPR, LLC’s (“**Plaintiff’s**”) Complaint, because it fails to plead this claim with particularity and fails state a claim upon which relief can be granted. Alternatively, if the Court is not inclined to dismiss this claim, True North moves, pursuant to Fed. R. Civ. P. 12(e), for an order that Plaintiff provide a more definite and, importantly, factual statement.

TABLE OF CONTENTS

	Page
INTRODUCTION	1
ARGUMENT	2
I. STANDARD ON A MOTION TO DISMISS	2
II. PLAINTIFF DOES NOT STATE A CLAIM FOR CIVIL CONSPIRACY	2
A. Plaintiff Did Not Properly Allege an Underlying Tort.	2
B. Plaintiff's Civil Conspiracy Claim Lacked Particularity.	3
C. Plaintiff Failed to State a Claim for Civil Conspiracy.	4
1. <i>Plaintiff Failed to Properly Allege a "Meeting of the Minds."</i>	6
2. <i>Plaintiff Failed to Properly Allege an "Illegal, Overt Act."</i>	7
III. ALTERNATIVELY, THE COURT SHOULD ORDER A MORE DEFINITE STATEMENT	8
IV. CONCLUSION	8

TABLE OF AUTHORITIES

	Page(s)
Federal Cases	
<i>Ashcroft v. Iqbal</i> , 556 U.S. 662 (2009).....	2
<i>Bell Atl. Corp. v. Twombly</i> , 550 U.S. 544 (2007).....	2, 6
<i>Celtig, LLC v. Patey</i> , 347 F.Supp.3d 976 (D. Utah 2018).....	2
<i>Garth O. Green Entrps., Inc. v. Harward</i> , No. 2:15-cv-00556, 2017 WL 1184024 (D. Utah Mar. 29, 2017).....	2
<i>Griffin v. Breckenridge</i> , 403 U.S. 88 (1971).....	3
<i>Kansas Penn Gaming, LLC v. Collins</i> , 656 F.3d 1210 (10th Cir. 2011)	2
<i>Montgomery v. City of Ardmore</i> , 365 F.3d 926 (10th Cir. 2004)	4, 7
<i>Robbins v. Oklahoma</i> , 519 F.3d 1242 (10th Cir. 2008)	6
<i>Sposi v. Santa Clara City, Utah</i> , No. 2:17-cv-1057-CW, 2018 WL 1578038 (D. Utah Mar. 27, 2018)	8
<i>Sugenex, LLC v. Predictive Therapeutics</i> , LCC, 462 F.Supp3d 1160 (D. Utah 2020)	5
<i>Tilton v. Richardson</i> , 6 F.3d 683 (10th Cir. 1993)	3
<i>Unified Container, LLC v. Mazuma Capital Corp.</i> , 280 F.R.D. 632 (D. Utah 2012)	4
<i>World Wide Assoc. of Specialty Programs v. Pure, Inc.</i> , 450 F.3d 1132 (10th Cir. 2006)	6
State Cases	
<i>Coroles v. Sabey</i> , 79 P.3d 974 (Utah Ct. App. 2003)	4
<i>Estrada v. Mendoza</i> , 275 P.3d 1024 (Utah Ct. App. 2012)	2, 3
<i>Israel Pagan Estate v. Cannon</i> , 746 P.2d 785 (Utah App. 1987).....	6
<i>Pohl, Inc. of Am.</i> , 201 P.3d 944 (Utah 2008).....	4

..

Federal Statutes

42 U.S.C. § 1983	3
42 U.S.C. § 1985	3

Federal Rules

Fed. R. Civ. P. 8(a)	1
Fed. R. Civ. P. 9(b)	Introduction, 1, 4, 9
Fed. R. Civ. P. 12(b)(6)	Introduction, 2, 9
Fed. R. Civ. P. 12(e)	1, 2

INTRODUCTION

The Complaint literally stated no claim against True North upon which relief may be granted, and thus this Court should dismiss the Complaint as to True North. Dissatisfied with its unsuccessful bid at obtaining a coveted license to cultivate medical cannabis in Utah via a highly competitive process, Plaintiff's scorched-earth Complaint blindly cast blame on nearly everyone involved in the selection process—seventeen separate defendants—including successful applicants, like defendant True North. But despite the medley of generically pled federal and state claims in Plaintiff's 41-page Complaint, few allegations involve Truth North. In fact, Plaintiff's only cause of action against True North, which also included all of the other defendants, is an obscure and factually vapid claim of civil conspiracy.

What is most notable about Plaintiff's civil conspiracy claim, with respect to True North, is what it failed to include. Plaintiff did not allege, with any specificity, that representatives of True North came to an agreement or a meeting of the minds with anyone, or that they engaged in an illegal, overt act in furtherance of a conspiracy in a way that detrimentally impacted Plaintiff. Indeed, the Complaint contained no allegations regarding which individuals at True North engaged in the alleged conspiracy, where an agreement was made, when it was made, and what it specifically entailed. On the contrary, Plaintiff's allegations against True North were nothing more than blanket and generic recitations of the elements of a civil conspiracy claim.

Plaintiff's failure to allege any specific facts to support a viable claim of civil conspiracy against True North demonstrated that Plaintiff only intends to engage in a prolonged fishing expedition, hoping to ultimately uncover nefarious behavior among the successful applicants who were awarded a cultivation license. In doing so, Plaintiff's barren allegations against True North in its Sixth Cause of Action are not sufficient to meet the pleading standards set forth in Fed. R. Civ. P. 8(a), much less the heightened pleading requirements in Fed. R. Civ. P. 9(b) that apply here. In addition, the deficient allegations failed also to state a claim for civil conspiracy, and thus this Court should dismiss them pursuant to Fed. R. Civ. P. 12(b)(6) as set forth more fully below.



Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.