

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

RICHARD ARJUN KAUL,

Plaintiff,

v.

CHRISTOPER J. CHRISTIE, et al.,

Defendants.

Civ. No. 16-2364 (KM) (SCM)

ORDER

KEVIN MCNULTY, U.S.D.J.

THIS MATTER having come before the Court on five motions to dismiss the Second Amended Complaint of *pro se* plaintiff Richard A. Kaul, M.D. ("Dr. Kaul"); the global motion (DE 260) to dismiss, pursuant to Fed. R. Civ. P. 12(b)(6); the motions to dismiss of defendants Allstate New Jersey Insurance Company ("Allstate") (DE 258) and defendants Fourth Edition Inc f/k/a North Jersey Media Group Inc. and Lindy Washburn (DE 263), pursuant to Fed. R. Civ. P. 12(b)(6); and the motions to dismiss of defendants William Mitchell, M.D. (DE 257) and Robert Heary, M.D. (DE 259) pursuant to Fed. R. Civ. P. 12(b)(6), (1); and defendants TD Bank N.A. and Divyesh Kothari having filed a letter in support of dismissal (DE 261); and Dr. Kaul, having filed responses (DE 268, 269, 269-1, 272, 273, 276, 272, 284); and the defendants having filed replies in support (DE 274, 292, 290, 291, 294, 295); and Dr. Kaul having filed sur-replies (DE 283, 284); and

THIS MATTER having further come before the Court on the motion (DE 281) of Dr. Kaul for default judgment against Lewis Stein, Esq. ("Stein"); and Stein having filed a letter in opposition (DE 282); and Dr. Kaul having filed replies (DE 286, 288); and

THIS MATTER having further come before the Court on the letter request (DE 243) of Dr. Kaul to amend the Second Amended Complaint to include an additional defendant;

For the reasons stated in the accompanying Opinion, and good cause appearing therefor;

IT IS this 22nd day of February, 2019,

ORDERED that the motions to dismiss (DE 257, 258, 259, 260, 263) are **GRANTED** in part and **DENIED** in part as follows.

1. All federal-law claims, consisting of the following counts, are **DISMISSED WITH PREJUDICE**:

- Counts One, Two, Three, and Four as to all defendants for failure to state a claim under Federal Rule of Civil Procedure 9(b);
- Count Five and the federal law claim of Count Six as to all defendants for failure to define the relevant market;
- Count Eleven as to all defendants for failure to state a claim upon which relief can be granted.

2. The state-law claims, consisting of the following counts, are **DISMISSED WITHOUT PREJUDICE**:

- The State Law Sub-Claims of Counts Six, Counts Seven through Ten, and Counts Twelve through Fourteen against all defendants for lack of subject matter jurisdiction.

IT IS further **ORDERED** that the motion of Dr. Kaul for default judgment (DE 281) is **DENIED** and that the letter request of Dr. Kaul (DE 243) to amend the Second Amended Complaint is **DENIED**.

The federal claims are dismissed with prejudice. As to the state law claims only, Dr. Kaul may file a properly supported motion to amend the complaint within 30 days after the date of this Order and Opinion.

A handwritten signature in blue ink, reading "Kevin McNulty", is written over a horizontal line.

KEVIN MCNULTY, U.S.D.J.