

EXHIBIT A

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-2982

RICKY KAMDEM-OUAFFO, PHD,
Appellant

v.

COLGATE PALMOLIVE CO; HILLS PET NUTRITION; NATURASOURCE INTERNATIONAL LLC; REARDON ANDERSON LLC; MORGAN LEWIS & BOCKIUS LLP; LAW OFFICE OF MARK A KRIEGEL LLC; VINCENT LEBLON J.S.C.; TERRY D. JOHNSON, ESQ.; TODD B. BUCK, ESQ.; MARK A.. KRIEGEL, ESQ.; LASZLO POKORNY; MS. KIM; ALLISON A. KRILLA, ESQ.; ERIK ANDERSON, ESQ.; RUDOLPH J. BURSHNIC, II, ESQ.; RICHARD G. ROSENBLATT, ESQ.; CLERK NEW JERSEY SUPERIOR COURT; DEBRA NICHOLS; DAVE BALOGA; SARAH B. MARTINEZ; LUIS J. MONTELONGO; BRENT K. POPE; DENNIS JEWELL; LYNDA MELENDEZ; JASON, Hon. Leblon's Law Clerk; COLGATES SCIENCE & TECHNOLOGY; DONALD TRAUT; AKEEL A. QURESHI; ATTORNEY GENERAL NEW JERSEY; LAW OFFICE OF GERARD M GREEN; FRANK ORBACH; JOHN J. HOFFMAN, Attorney General; SHANNON MCGARRAH; THOMAS HOXIE; MARK DELUCA; MICHAEL STRAHER; CLIFFORD WILKINS; WILLIAM BROGAN; DAWN GARDNER; BRIAN BELLES; MICHAEL DIDAS; SHARON HUANG; RYAN FLANDRO; TODD KLEIN; NIKHIL HEBLE; JUDY CHUNG; MICHAEL JORDAN; ANNE ST. MARTIN; GEORGE WANG; SAMIA CHAUDRY; SANGIL LEE; CORY S. POKER; MATTHEW HERD; YIQUIN ZHAO; JACOB BLUMERT; HARVEY LIU; MARIO DEREVJANIK; KRISANNE LANE; GEORGE SANG; SAMUEL KATZ; THOMAS M. HUNTER; ROBERT T. LOUGY; A. LISA PUGLISI; IAN SUPERIOR COURT MIDDLESEX COUNTY; DEBRA L. STOREY; KLJ TRANSCRIPTION SERVICES, LLC; JOHN AND/OR JANE DOES 1-10; ABC CORPORATIONS 1-10

(D.C. Civil Action No. 2-22-cv-06623)

SUR PETITION FOR REHEARING

Present: CHAGARES, *Chief Judge*, JORDAN, HARDIMAN, SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, FREEMAN, MONTGOMERY-REEVES, CHUNG, and NYGAARD,* *Circuit Judges*.

The petition for rehearing filed by **appellant** in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT,

s/ Peter J. Phipps
Circuit Judge

Date: July 30, 2024
JK/cc: Ricky Kamdem-Ouaffo
All Counsel of Record

* Judge Nygaard's vote is limited to panel rehearing.

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-2982

RICKY KAMDEM-OUAFFO, PHD,
Appellant

v.

COLGATE PALMOLIVE CO; HILLS PET NUTRITION; NATURASOURCE INTERNATIONAL LLC; REARDON ANDERSON LLC; MORGAN LEWIS & BOCKIUS LLP; LAW OFFICE OF MARK A KRIEGEL LLC; VINCENT LEBLON J.S.C.; TERRY D. JOHNSON, ESQ.; TODD B. BUCK, ESQ.; MARK A.. KRIEGEL, ESQ.; LASZLO POKORNY; MS. KIM; ALLISON A. KRILLA, ESQ.; ERIK ANDERSON, ESQ.; RUDOLPH J. BURSHNIC, II, ESQ.; RICHARD G. ROSENBLATT, ESQ.; CLERK NEW JERSEY SUPERIOR COURT; DEBRA NICHOLS; DAVE BALOGA; SARAH B. MARTINEZ; LUIS J. MONTELONGO; BRENT K. POPE; DENNIS JEWELL; LYNDA MELENDEZ; JASON, Hon. Leblon's Law Clerk; COLGATES SCIENCE & TECHNOLOGY; DONALD TRAUT; AKEEL A. QURESHI; ATTORNEY GENERAL NEW JERSEY; LAW OFFICE OF GERARD M GREEN; FRANK ORBACH; JOHN J. HOFFMAN, Attorney General; SHANNON MCGARRAH; THOMAS HOXIE; MARK DELUCA; MICHAEL STRAHER; CLIFFORD WILKINS; WILLIAM BROGAN; DAWN GARDNER; BRIAN BELLES; MICHAEL DIDAS; SHARON HUANG; RYAN FLANDRO; TODD KLEIN; NIKHIL HEBLE; JUDY CHUNG; MICHAEL JORDAN; ANNE ST. MARTIN; GEORGE WANG; SAMIA CHAUDRY; SANGIL LEE; CORY S. POKER; MATTHEW HERD; YIQUIN ZHAO; JACOB BLUMERT; HARVEY LIU; MARIO DEREVJANIK; KRISANNE LANE; GEORGE SANG; SAMUEL KATZ; THOMAS M. HUNTER; ROBERT T. LOUGY; A. LISA PUGLISI; IAN SUPERIOR COURT MIDDLESEX COUNTY; DEBRA L. STOREY; KLJ TRANSCRIPTION SERVICES, LLC; JOHN AND/OR JANE DOES 1-10; ABC CORPORATIONS 1-10

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil Action No. 2-22-cv-06623)
District Judge: Honorable Claire C. Cecchi

Submitted Pursuant to Third Circuit LAR 34.1(a)

June 6, 2024

Before: JORDAN, PHIPPS, and NYGAARD, Circuit Judges

(Opinion filed: July 1, 2024)

OPINION*

PER CURIAM

Ricky Kamdem-Ouaffo, proceeding pro se, presented the following causes of action in his operative, first amended complaint: fraud on the court; aiding and abetting fraud; breach of fiduciary duty and the duty of care; legal malpractice predicated on attorney negligence; violations of 42 U.S.C. § 1983; violations of the Fourteenth Amendment; violations of the Defend Trade Secrets Act of 2016; breach of contract; tortious interference with his business opportunities; conspiracy and collusion; and unjust enrichment. The Defendants moved to dismiss the complaint, and the District Court granted the motions, dismissing with prejudice after finding that any further amendment would be futile. This appeal timely followed.

We have jurisdiction under 28 U.S.C. § 1291. To the extent that the District Court dismissed under Federal Rule of Civil Procedure 12(b)(1), our review is plenary. Gould Elecs. Inc., v. United States, 220 F.3d 169, 176 (3d Cir. 2000). We likewise exercise

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

plenary review over a district court's dismissal for failure to state a claim. See Allah v. Seiverling, 229 F.3d 220, 223 (3d Cir. 2000). A plaintiff must present in his or her complaint "factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged," and this "plausibility standard . . . asks for more than a sheer possibility that a defendant has acted unlawfully." Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing Bell Atl. Corp. v. Twombly, 550 U.S. 544, 556–57 (2007)). We may affirm on any basis supported by the record. See Tourscher v. McCullough, 184 F.3d 236, 240 (3d Cir. 1999).

The District Court categorized the Defendants as follows:

1. Morgan, Lewis & Bockius LLP, Terry D. Johnson, Richard G. Rosenblatt, Todd B. Buck, and Rudolph J. Burshnic II as the "Morgan Lewis Defendants";
2. Reardon Anderson, LLC; Erik Anderson, Esq.; and Allison K. Krilla, Esq. as the "Reardon Anderson Defendants";
3. Mark A. Kriegel, Esq.; Law Office of Mark A. Kriegel, LLC; Naturasource International, LLC; and Laszlo Pokorny as the "Naturasource Defendants";
4. Colgate-Palmolive Company and Hill's Pet Nutrition, Inc. as the "Colgate Defendants";
5. The Honorable Vincent LeBlon, J.S.C.; Michelle M. Smith, Clerk of the Superior Court of New Jersey; Jason Scotto D'Aniello, Esq.; and Ian Ratzlaff as the "Judicial Defendants";
6. The Attorney General of New Jersey; former acting attorney general John J. Hoffman; the Honorable Robert T. Lougy, A.J.S.C.; the Honorable Lisa A. Puglisi J.S.C.; and Akeel Qureshi, Esq. as the "AG Defendants"; and
7. Frank Orbach and the Law Office of Gerard M. Green as the "Orbach Defendants."

The instant action is Kamdem-Ouaffo's fourth attempt to relitigate his claims in federal court following his state court loss regarding his allegation that Defendant Naturasource and the Colgate Defendants misappropriated Kamdem-Ouaffo's proprietary pet food flavoring information. The matter was initially litigated in the Superior Court of New Jersey. See Ricky Emery Kamdem Ouaffo t/a Kamdem Grp. v. Colgate, et al., No. MID-L-5527-13 (N.J. Super. Ct. Law Div.) (hereinafter the "State Court Action"). Kamdem-Ouaffo's state court complaint was dismissed with prejudice after Defendant Judge LeBlon found that there was no basis for any of his claims. Shortly before the dismissal, Kamdem-Ouaffo attempted to remove the State Court Action to federal court (hereinafter the "Removal Action"), but the case was quickly remanded.

After the remand, Kamdem-Ouaffo filed a separate suit in federal court against Defendants LeBlon, the Reardon Anderson Defendants (who were Kamdem-Ouaffo's counsel in the State Court Action), a subset of the Morgan Lewis Defendants (who counseled the Colgate Defendants in the State Court Action), and Defendant Kriegel (counsel to the Naturasource Defendants in the State Court Action). See Ricky Emery Kamdem Ouaffo t/a Kamdem Grp. v. LeBlon, No. 15-cv-7481, 2015 WL 9463091, at *2 (D.N.J. Dec. 21, 2015) (hereinafter the "LeBlon Action"). In that suit, Kamdem-Ouaffo alleged that the Defendants conspired to force the dismissal of his complaint in the State Court Action. The District Court dismissed his claims, and we affirmed after noting that Kamdem-Ouaffo's allegations were "entirely irresponsible" and "based on nothing more

than the fact that the court ruled against him.” See Kamdem-Ouaffo v. LeBlon, 673 F. App’x 223, 226 (3d Cir. 2016) (per curiam).

Kamdem-Ouaffo also filed a third federal case against the Colgate Defendants and Naturesource Defendants in which he reiterated claims that had already been adjudicated in the State Court Action (hereinafter the “Colgate Action”). The District Court dismissed his third amended complaint with prejudice, and we affirmed. See Kamdem-Ouaffo v. Colgate Palmolive Co., No. 21-1198, 2022 WL 382032 (3d Cir. Feb. 8, 2022) (per curiam). Kamdem-Ouaffo filed three motions for reconsideration, which were all denied.

Returning to the instant proceedings, the District Court first addressed the claims against the Judicial Defendants, and determined that Kamdem-Ouaffo failed to allege that Defendant Judge LeBlon engaged in any action that was beyond his judicial capacity or in the complete absence of all jurisdiction. See Figueroa v. Blackburn, 208 F.3d 435, 444 (3d Cir. 2000). It therefore concluded that he was entitled to absolute judicial immunity. See Azubuko v. Royal, 443 F.3d 302, 303 (3d Cir. 2006) (per curiam). For functionally the same rationale, the District Court concluded that the remaining Judicial Defendants were entitled to quasi-judicial immunity as employees of the court. See Gallas v. Sup. Ct. of Pa., 211 F.3d 760, 772–73 (3d Cir. 2000). For these reasons, the District Court dismissed the claims against the Judicial Defendants.

The District Court then turned to the bulk of the claims against the Morgan Lewis Defendants, as well as the claims against the AG Defendants and Orbach Defendants. It

began its analysis by citing New Jersey’s litigation privilege. See Allen ex rel. Martin v. LaSalle Bank, N.A., 629 F.3d 364, 369 (3d Cir. 2011). The District Court noted that the claims against these Defendants—who are all attorneys or law firms—related to alleged conduct undertaken as part of the Defendants’ efforts to advocate on behalf of their clients in prior legal proceedings such as the State Court Action, the LeBlon Action, and the Colgate Action. In light of this fact, the District Court concluded that these Defendants’ actions were protected by the litigation privilege, and it therefore dismissed the claims against them.

The District Court next addressed Kamdem-Ouaffo’s Defend Trade Secrets Act (DTSA) claim against the Morgan Lewis Defendants, the Naturesource Defendants, and the Colgate Defendants. These claims arose out of alleged misappropriations that occurred from 2011 to 2015. A private action for misappropriation presented under the DTSA “may not be commenced later than 3 years after the date on which the misappropriation with respect to which the action would relate is discovered or by the exercise of reasonable diligence should have been discovered.” 18 U.S.C. § 1836(d). The District Court noted that Kamdem-Ouaffo became aware of the conduct underlying his claims through the course of the State Court Action, which concluded over eight years prior to the instant proceedings. The District Court therefore dismissed this claim as untimely.

Lastly, the District Court addressed the remaining claims against the Reardon Anderson Defendants, Colgate Defendants, and Naturesource Defendants. It concluded

that these claims were negated by the doctrine of res judicata, which bars a claim when the following factors are present: “(1) a final judgment on the merits in a prior suit involving; (2) the same parties or their privities; and (3) a subsequent suit based on the same cause of action.” CoreStates Bank, N.A. v. Huls Am., Inc., 176 F.3d 187, 194 (3d Cir. 1999) (quoting Bd. of Trs. of Trucking Emps. Welfare Fund, Inc. v. Centra, 983 F.2d 495, 504 (3d Cir. 1992)). The District Court reasoned thusly because Kamdem-Ouaffo’s claims were already adjudicated to final judgment in the proceedings mentioned above, and the other two factors were equally applicable to the instant case.

To the extent that Kamdem-Ouaffo was attempting to present new claims related to fraud upon the court, the District Court concluded that he failed to present sufficient evidence to “meet the demanding standard for fraud upon the court.” Herring v. United States, 424 F.3d 384, 387 (3d Cir. 2005) (noting such claims are only justified by “the most egregious misconduct directed at the court itself”). To the extent that Kamdem-Ouaffo was attempting to present new claims related to legal malpractice, these claims were untimely, as the New Jersey statute of limitations for such a claim is six years, see N.J. Stat. Ann. § 2A:14-1, and the alleged conduct occurred over seven years prior to the commencement of the instant proceedings. Consequently, the District Court dismissed these claims as well.

Upon review, we agree with the District Court’s reasoning and conclusions regarding the dismissal of Kamdem-Ouaffo’s claims. In his brief, Kamdem-Ouaffo reiterates his claims and unsupported allegations of fraud upon the court, but fails to

present any meaningful challenge to the District Court's rationale. Accordingly, we will affirm the judgment of the District Court. We deny Kamdem-Ouaffo's request/motion pursuant to Local Appellate Rule 34.1(b) for oral argument. We likewise deny his motion for judicial notice.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-2982

RICKY KAMDEM-OUAFFO, PHD,
Appellant

v.

COLGATE PALMOLIVE CO; HILLS PET NUTRITION; NATURASOURCE INTERNATIONAL LLC; REARDON ANDERSON LLC; MORGAN LEWIS & BOCKIUS LLP; LAW OFFICE OF MARK A KRIEGEL LLC; VINCENT LEBLON J.S.C.; TERRY D. JOHNSON, ESQ.; TODD B. BUCK, ESQ.; MARK A. KRIEGEL, ESQ.; LASZLO POKORNY; MS. KIM; ALLISON A. KRILLA, ESQ.; ERIK ANDERSON, ESQ.; RUDOLPH J. BURSHNIC, II, ESQ.; RICHARD G. ROSENBLATT, ESQ.; CLERK NEW JERSEY SUPERIOR COURT; DEBRA NICHOLS; DAVE BALOGA; SARAH B. MARTINEZ; LUIS J. MONTELONGO; BRENT K. POPE; DENNIS JEWELL; LYNDA MELENDEZ; JASON, Hon. Leblon's Law Clerk; COLGATES SCIENCE & TECHNOLOGY; DONALD TRAUT; AKEEL A. QURESHI; ATTORNEY GENERAL NEW JERSEY; LAW OFFICE OF GERARD M GREEN; FRANK ORBACH; JOHN J. HOFFMAN, Attorney General; SHANNON MCGARRAH; THOMAS HOXIE; MARK DELUCA; MICHAEL STRAHER; CLIFFORD WILKINS; WILLIAM BROGAN; DAWN GARDNER; BRIAN BELLES; MICHAEL DIDAS; SHARON HUANG; RYAN FLANDRO; TODD KLEIN; NIKHIL HEBLE; JUDY CHUNG; MICHAEL JORDAN; ANNE ST. MARTIN; GEORGE WANG; SAMIA CHAUDRY; SANGIL LEE; CORY S. POKER; MATTHEW HERD; YIQUIN ZHAO; JACOB BLUMERT; HARVEY LIU; MARIO DEREVJANIK; KRISANNE LANE; GEORGE SANG; SAMUEL KATZ; THOMAS M. HUNTER; ROBERT T. LOUGY; A. LISA PUGLISI; IAN SUPERIOR COURT MIDDLESEX COUNTY; DEBRA L. STOREY; KLJ TRANSCRIPTION SERVICES, LLC; JOHN AND/OR JANE DOES 1-10; ABC CORPORATIONS 1-10

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil Action No. 2-22-cv-06623)
District Judge: Honorable Claire C. Cecchi

Submitted Pursuant to Third Circuit LAR 34.1(a)

June 6, 2024

Before: JORDAN, PHIPPS, and NYGAARD, Circuit Judges

JUDGMENT

This cause came to be considered on the record from the United States District Court for the District of New Jersey and was submitted pursuant to Third Circuit LAR 34.1(a) on June 6, 2024. On consideration whereof, it is now hereby

ORDERED and ADJUDGED by this Court that the judgment of the District Court entered October 31, 2023, be and the same is hereby affirmed. Costs taxed against the appellant. All of the above in accordance with the opinion of this Court.

ATTEST:

s/ Patricia S. Dodszuweit
Clerk

Dated: July 1, 2024

OFFICE OF THE CLERK

PATRICIA S. DODSZUWEIT

CLERK



UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT
21400 UNITED STATES COURTHOUSE
601 MARKET STREET
PHILADELPHIA, PA 19106-1790

Website: www.ca3.uscourts.gov

TELEPHONE

215-597-2995

July 1, 2024

Rudolph J. Burshnic II
Morgan Lewis & Bockius
502 Carnegie Center
Princeton, NJ 08540

Azeem M. Chaudry
Office of Attorney General of New Jersey
Division of Law
25 Market Street
Hughes Justice Complex
Trenton, NJ 08625

Patrick J. Cosgrove
Freeman Mathis & Gary
1600 Market Street
Suite 1210
Philadelphia, PA 19103

Terry D. Johnson
Morgan Lewis & Bockius
502 Carnegie Center
Princeton, NJ 08540

Ricky Kamdem-Ouaffo
86 Bayard Street
P.O. Box 381
New Brunswick, NJ 08903

Caroline McKenna
Ford Marrin Esposito Witmeyer & Gleser
88 Pine Street
16th Floor, Wall Street Plaza
New York, NY 10005

Richard G. Rosenblatt

Morgan Lewis & Bockius
502 Carnegie Center
Princeton, NJ 08540

Jae K. Shim
Office of Attorney General of New Jersey
25 Market Street
Richard J. Hughes Justice Complex
P.O. Box 112
Trenton, NJ 08625

RE: Ricky Kamdem-Ouaffo v. Colgate Palmolive Co, et al
Case Number: 23-2982
District Court Case Number: 2-22-cv-06623

ENTRY OF JUDGMENT

Today, **July 01, 2024** the Court entered its judgment in the above-captioned matter pursuant to Fed. R. App. P. 36.

If you wish to seek review of the Court's decision, you may file a petition for rehearing. The procedures for filing a petition for rehearing are set forth in Fed. R. App. P. 35 and 40, 3rd Cir. LAR 35 and 40, and summarized below.

Time for Filing:

14 days after entry of judgment.

45 days after entry of judgment in a civil case if the United States is a party.

Form Limits:

3900 words if produced by a computer, with a certificate of compliance pursuant to Fed. R. App. P. 32(g).

15 pages if hand or type written.

Attachments:

A copy of the panel's opinion and judgment only.

Certificate of service.

Certificate of compliance if petition is produced by a computer.

No other attachments are permitted without first obtaining leave from the Court.

Unless the petition specifies that the petition seeks only panel rehearing, the petition will be construed as requesting both panel and en banc rehearing. Pursuant to Fed. R. App. P. 35(b)(3), if separate petitions for panel rehearing and rehearing en banc are submitted, they will be treated as a single document and will be subject to the form limits as set forth in Fed. R. App. P. 35(b)(2). If only panel rehearing is sought, the Court's rules do not provide for the subsequent

filing of a petition for rehearing en banc in the event that the petition seeking only panel rehearing is denied.

A party who is entitled to costs pursuant to Fed.R.App.P. 39 must file an itemized and verified bill of costs within 14 days from the entry of judgment. The bill of costs must be submitted on the proper form which is available on the court's website.

A mandate will be issued at the appropriate time in accordance with the Fed. R. App. P. 41.

Please consult the Rules of the Supreme Court of the United States regarding the timing and requirements for filing a petition for writ of certiorari.

Very Truly Yours,

s/ Patricia S. Dodszeit
Clerk

By: s/ James King
Case Manager
Direct Dial: 267-299-4958

**Additional material
from this filing is
available in the
Clerk's Office.**