

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

|                                    |   |                                |
|------------------------------------|---|--------------------------------|
| EDWARD C. HORTON,                  | ) |                                |
|                                    | ) |                                |
| Plaintiff,                         | ) |                                |
|                                    | ) |                                |
| v.                                 | ) | Case No. 1:20-cv-02397-TWP-DML |
|                                    | ) |                                |
| LEASINGDESK SCREENING, MONON LOFTS | ) |                                |
| APARTMENTS, and BETTERNOI,         | ) |                                |
|                                    | ) |                                |
| Defendants.                        | ) |                                |

**ORDER GRANTING THE PARTIES' UNOPPOSED MOTIONS TO DISMISS  
CERTAIN DEFENDANTS AND ENTRY ON PENDING MATTERS**

This matter is before the Court on several pending Motions. *Pro se* Plaintiff Edward C. Horton, ("Mr. Horton"), initiated this action on September 16, 2020 alleging violations of the Fair Debt Collection Practices Act and Consumer Credit violations against Defendants Leasingdesk Screening<sup>1</sup>, Monon Lofts Apartments, and BetterNOI. (Dkt. 1.) Defendant BetterNOI has filed a Motion to Dismiss Complaint, (Dkt. 13), Defendant RealPage, has filed a Motion to Dismiss First Amended Complaint, (Dkt. 23), and Mr. Horton has also filed Motions to Dismiss (Dkts. 29, 30). In addition, Mr. Horton has filed a Motion for Permanent Injunction, (Dkt. 4), a Motion for Change of Venue, (Dkt. 11), a Motion for Preliminary Injunction and Order to Remove, (Dkt. 31), a Motion for Discovery and Production of Documents, (Dkt. 32), and a Second Amended Complaint, (Dkt. 33). For the reasons stated, the Motions to Dismiss are **granted** and all other motions are **denied**.

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<sup>1</sup> Defendant RealPage, Inc. advises in its Motion to Dismiss that it has been incorrectly identified as Leasingdesk Screening. (Dkts. 23 at 1, 24 at 1.) In this Order, the Court will refer to this Defendant by its correct name, RealPage.

## **I. DISCUSSION**

### **A. The First Amended Complaint**

In his first Amended Complaint, (Dkt. 7 at 2-3), Mr. Horton requested \$3,035,000.00 in damages from Defendants RealPage, Monon Lofts Apartments, and BetterNOI (collectively, "Defendants"). He asserted that he was bringing a claim "for violations of the Plaintiffs [sic] Civil Rights, harassment, defamation, housing discrimination and Violations [sic] of the Federal Trade Commission, [and] Fair Debt Collection Practices Act," concerning filings in the Marion Superior Court. (Dkt. 7 at 2.) Mr. Horton also noted that he filed a lawsuit "in the Texas Court to find out who the creditor is." *Id.* at 2-3. The Court screened Mr. Horton's Amended Complaint, and determined that it was subject to dismissal for lack of subject matter jurisdiction. (Dkt. 10.) The Court explained to Mr. Horton, among other things, that the Amended Complaint failed to provide a short and plain statement of a claim showing that Mr. Horton is entitled to relief, and lacked clarity. *Id.* at 4. Mr. Horton was granted leave to file a second amended complaint if he believed he could cure the defects in his Amended Complaint. He was given through Friday, October 23, 2020, by which to show cause why judgment consistent with this Entry should not issue. *Id.* at 5.

On October 9, 2020, Defendant BetterNOI filed a Motion to Dismiss, (Dkt. 13), arguing that Horton's first Amended Complaint, filed pursuant to Federal Rule of Civil Procedure 12(b)(1) and (2), should be dismissed for lack of personal jurisdiction. BetterNOI contends that it is not subject to general personal jurisdiction or specific subject matter jurisdiction of this Court.

On October 14, 2020, Defendant RealPage also filed a Motion to Dismiss, (Dkt. 23). In its Motion, RealPage argued that Horton failed to state a claim upon which relief could be granted, because "Plaintiff presents no factual allegations in his Complaint and instead makes generalized and conclusory statements, which are ... insufficient to adequately plead any of these claims. *Id.*

Mr. Horton also believes dismissal of these two Defendants is appropriate. On October 22, 2020, he moved to dismiss his claims against Defendants RealPage and BetterNOI without prejudice, (Dkt. 29, Dkt. 30). In both Motions, Horton states that he "is going back to Texas" and asks to be allowed "the right to refile his case against in the proper jurisdiction". (Dkt 29.) The parties' unopposed Motions to Dismiss are **granted**. All parties agree that this Court lacks subject matter jurisdiction over the claims against Defendant BetterNOI and Defendant RealPage, and they are **terminated** from this action.

**B. Additional Motions**

Mr. Horton's Motion for Permanent Injunction, (Dkt. 4), and Motion for Preliminary Injunction and Order to Remove, (Dkt. 31), are **denied as moot**, as these motions seek relief against Defendants who are no longer parties to this action. The Motion for Change of Venue, (Dkt. 11), references Defendant BetterNOI alone. Because the claims against BetterNOI are now **dismissed**, this Motion is also **denied as moot**. The Motion for Discovery and Production of Documents, (Dkt. 32), is **denied as premature**. Prior to filing a motion involving a discovery dispute, the parties should confer in good faith and attempt to resolve the dispute. If they are unable to resolve the dispute, they may contact the Magistrate Judge regarding a conference.

**C. The Second Amended Complaint**

The Court notes that on October 22, 2020, Mr. Horton also filed a Second Amended Complaint. (Dkt. 33.) This complaint alleges claims against only Defendant Monon Loft Apartments. The Second Amended Complaint, (Dkt. 33), is now the operative complaint in this action. Because counsel for Monon Loft Apartments has appeared, the Court will not *sua sponte* screen the Second Amended Complaint, instead, counsel may file any motion deemed appropriate.

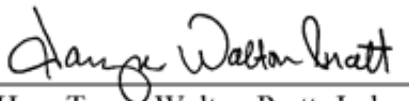
## **II. CONCLUSION**

For the reasons stated above, the Court **GRANTS** the parties' unopposed Motions to Dismiss without prejudice, Dkt [13], Dkt [23], Dkt. [29], Dkt. [30], and Defendants Leasingdesk Screening and BetterNOI are **terminated** from this action. No final judgment will issue at this time.

Mr. Horton's Motion for Permanent Injunction Dkt. [4], Motion for Change of Venue, Dkt. [11], Motion for Preliminary Injunction and Order to Remove, Dkt. [31], and Motion for Discovery and Production of Documents, Dkt. [32], are **DENIED**.

### **SO ORDERED.**

Date: 10/28/2020

  
Hon. Tanya Walton Pratt, Judge  
United States District Court  
Southern District of Indiana

### **DISTRIBUTION:**

Edward C. Horton  
640 East Michigan Street, B119  
Indianapolis, Indiana 46202

Laura K. Rang  
SCHUCKIT & ASSOCIATES, P.C.  
lrang@schuckitlaw.com

Susan Ruihua Shan  
SCHUCKIT & ASSOCIATES, P.C.  
sshan@schuckitlaw.com

Carl A. Hayes  
LANDMAN BEATTY, LAWYERS  
chayes@landmanbeatty.com

Joseph Shaw Messer  
MESSER STRICKLER LTD.  
jmesser@messerstrickler.com

Stephanie A. Strickler  
MESSER STRICKLER, LTD.  
sstrickler@messerstrickler.com