UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CENTRAL PHOTO COMPANY INC.,

Plaintiff,

v.

CHARLOTTE RICHARDSON,

Defendant.

Civil Action No. 25-03426 (AHA)

DEFENDANT'S NOTICE OF ANTICIPATED MOTION TO DISMISS

Defendant Charlotte Richardson notifies the Court of her intent to file a motion to dismiss under Fed. R. Civ. P. 12(b)(6) and 12(b)(1). Plaintiff is using the instant lawsuit as an attempt to prevent Defendant from competing with it, but Defendant never signed the non-compete Plaintiff presented to Defendant upon her termination, as it violated D.C. law. Moreover, Plaintiff brought this suit shortly after Defendant alleged that Plaintiff fired her— after more than three decades of devoted service to Defendant—due to age and disability (cancer) discrimination and in retaliation for protected activity. Plaintiff filed a baseless lawsuit that fails to state claims or meet the requirements for diversity jurisdiction.

I. Plaintiff Does Not State a Claim for Breach of Contract

Plaintiff alleges Defendant breached a non-disclosure agreement ("Agreement") when, after her termination, she used confidential information for her personal gain, including Defendant's client list and information, booking schedule, pricing information, as well as a photography method Plaintiff calls the "runner" trick, causing more than $75,000 in monetary damages. Compl. at ¶ 32-33. Under District of Columbia law, a breach of contract occurs when

there is "(1) a valid contract between the parties; (2) an obligation or duty arising out of the contract; (3) a breach of that duty; and (4) damages caused by breach." *Ihebereme v. Capital One, N.A.*, 730 F. Supp. 2d 40, 47 (D.D.C. 2010). Claim 1 should be dismissed because it is deficiently pled on the third and fourth elements of a breach of contract claim and Defendant had no duty of confidentiality regarding the "runner" trick, which is public information.

As to element three, Plaintiff relies solely on "belief" and legal conclusions when it states that Defendant breached the contract by using Plaintiff's "client contact list and information, booking schedule, and pricing information" in violation of the Agreement. Compl. at ¶¶ 25-26, 32; *see Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (dismissing complaint that did not set forth facts that would support a plausible violation of law); *Blue v. District of Columbia*, 850 F. Supp. 2d 16, 27 (D.D.C. 2012) (explaining that, at the motion to dismiss stage, courts need not accept as true legal conclusions "couched as factual allegation[s]") (citation omitted). Plaintiff's allegations lack any factual basis, like specific ways Defendant purportedly used said information or dates of such alleged breaches. *In re Papst Licensing GmbH & Co. KG Litig. v. Sanyo Elec. Co.*, 585 F. Supp. 2d 32, 36 (explaining that a complaint should sufficiently identify the "circumstances, occurrences, and events" giving rise to the claim). The only factual assertion related to an alleged breach—Defendant's taking a group photo of Plaintiff's former client on an unspecified date, demonstrated by a blurry, indecipherable photo—fails to specify how Defendant improperly used Plaintiff's confidential information. Compl. at ¶¶ 27. This incident could be explained by an equally plausible and "obvious alternative explanation" that Defendant's former client simply chose to hire Defendant over Plaintiff based on her photography skills. *Iqbal*, 556 U.S. at 682 (finding that when a lawful "obvious alternative explanation" exists, an inference of an unlawful explanation is not plausible) (quoting *Twombly*).

Plaintiff also fails to sufficiently plead element four of breach of contract, as it merely states that, since Defendant's termination, "many" of its Clients have cancelled appointments but does not explain how such cancellations could have added up to $75,000.00 at a small company in a brief two-month period between Defendant's termination and the filing of the Complaint. Compl. at ¶ 24. There is simply no factual basis that would support an inference of damages in that amount. *See Papst Licensing*, 585 F. Supp. 2d at 34-35 (finding allegations based only on "information and belief" do not "raise a right to relief above the speculative level").

As to Defendant's alleged use of the "runner" photography trick, Plaintiff fails to state a breach of contract claim because Defendant had no duty related to that publicly known information, which appears on Plaintiff's own website and is captured in a video housed in the Library of Congress.[1] *See* Central Photo Company, https://www.centralphotocompany.com (last visited Oct. 22, 2025) ("History" and "Services" pages explaining its use of a Cirkut camera, a long vertical exposure, and the "runners" trick that "allows the same person . . . to appear in the photograph twice."); Library of Congress, "Panoramic Photographs," https://www.loc.gov/pictures/collection/pan/shooting.html (showing Plaintiff publicly demonstrated the "runner" technique in 1992).[2] By the Agreement's own terms, Defendant's alleged use of the "runner" trick is not confidential information. *See* Compl., Ex. A at 2 (defining confidential information as "not generally known to the public or in the relevant trade or

[1] Plaintiff references the "History" and "Services" pages of its website in its Complaint, so the Court is permitted to consider this evidence at the Motion to Dismiss Stage. *See* Compl. at 3 n.1-n.2; *see also Abhe & Svoboda, Inc. v. Chao*, 508 F.3d 1052, 1059 (D.C. Cir. 2007) ("In determining whether a complaint states a claim, the court may consider . . . documents attached thereto or incorporated therein . . . .").

[2] Defendant intends to move to request that the Judge take judicial notice of the fact that Plaintiff publicized how to do the "runner" trick in 1992 because it is a historical fact that is "verifiable with certainty." *Bradley v. Vox Media, Inc.*, 320 F. Supp. 3d 178, 181 (D.D.C. 2018). Multiple courts have taken judicial notice of documents made publicly available through the Library of Congress. *See, e.g., Bruguier v. Lac du Flambeau Band of Lake Superior Chippewa Indians*, 237 F. Supp. 3d 867, 872 n.1 (W.D. Wis. 2017) ("The court may take judicial notice of this corporate charter because it is publicly available at the Library of Congress"); *Barrientos v. Walker*, No. 1:23-cv-01432, 2024 U.S. Dist. LEXIS 42478, at *27 n.9 (E.D. Cal. Mar. 8, 2024).

industry."); *McKinney v. District of Columbia*, 142 F.4th 784, 790-91 (D.C. Cir. 2025) (affirming dismissal for failure to state a claim where the plain language of the contract did not give rise to the duty plaintiff alleged that defendant violated).

II. Plaintiff Does Not State a Claim for Conversion of Plaintiff's Phone Number

Plaintiff alleges Defendant "converted" its phone number by porting her cell phone to another phone carrier after she was terminated. Compl. at ¶ 41. The D.C. Circuit and lower courts have expressed deep skepticism about whether intangible property is subject to a claim of conversion—unlawful interference with one's personal property—and have consistently dismissed such claims. *See Kaempe v. Myers*, 367 F.3d 958, 964 (D.C. Cir. 2004) (finding persuasive Maryland law limiting conversion actions base on intangible property to situations where such property is merged in a transferrable document, and the document itself is converted); *Xereas v. Heiss*, 933 F. Supp. 2d 1, 7 (D.D.C. 2013) (dismissing a claim of conversion based on intangible property for failure to state a claim). D.C. courts have held similarly. *See, e.g. Greenpeace, Inc. v. Dow Chem. Co.*, 97 A.3d 1053, 1064 (D.C. 2014) (explaining that in the District, conversion claims are "sharply limited" as applied to intangible property). Because phone numbers are intangible property, Plaintiff has failed to state a claim for conversion of the phone number. *Id.* at 1064 ("Whatever other protections the law may offer to protect intangible property rights, the common-law tort of conversion is generally ill-suited to that end.").

III. Plaintiff Fails to State a Claim of Misappropriation

Plaintiff's allegation that Defendant engaged in misappropriation when she used Plaintiff's reputation, images, cell phone, and phone number fails to state a claim because it does not sufficiently identify the legal basis for its misappropriation claim. *See Battle v. Master Sec.*

Co., LLC, 298 F. Supp. 3d 250, 254 (D.D.C. 2018) (dismissing a claim for failing to clearly identify legal basis of claim). When a claim lacks legal citations and is too vague for the Court or the Defendant to "understand whether a valid claim is alleged and if so what it is," it should be dismissed for failure to state a claim. *See Long v. Transworld Sys.*, No. 24-567, 2024 U.S. Dist. LEXIS 80897, at *4-5 (D.D.C. May 3, 2024). Moreover, Plaintiff's allegations regarding misappropriation are, like Claim 1, solely based on its "belief" and amount to nothing more than naked assertions that must be dismissed. *See Papst Licensing*, 585 F. Supp. 2d 32 at 34-35.

IV. Plaintiff Has Not Met the Amount-in-Controversy Requirement for Subject Matter Jurisdiction

With all but one claim that should be dismissed for failure to state a claim, there is "legal certainty" that Plaintiff cannot recover more than $75,000 for the alleged conversion of a single physical phone. 28 U.S.C. § 1332(a); *see Bronner v. Duggan*, 364 F. Supp. 3d 9, 17 (D.D.C. 2019) *aff'd*, 962 F.3d 596 (D.C. Cir. 2020) (demonstrating that dismissed claims cannot be considered in the amount-in-controversy of diversity jurisdiction); *Alston v. Flagstar Bank, FSB*, 609 F. App'x 2, 3-4 (explaining that breach of contract under D.C. law without demonstrated economic harm results in nominal damages but does not meet diversity jurisdiction requirement). Even if no claims were dismissed, Plaintiff fails to sufficiently plead how its claims together meet the amount-in-controversy amount, depriving the Court of subject matter jurisdiction. *See Papst Licensing*, 585 F. Supp. 2d at 34-35.

Date: November 14, 2025

Respectfully submitted,

/s/ Katherine R. Atkinson

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