FOR PUBLICATION

E-FILED
CNMI SUPERIOR COURT
E-filed: Mar 02 2021 09:57AM
Clerk Review: Mar 02 2021 09:57AM
Filing ID: 66380744
Case Number: 20-0003-CV
N/A

IN THE SUPERIOR COURT
FOR THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

GENERAL ASIA PACIFIC CONSULTING LLC and MATT BECK, **Plaintiffs,** **vs.** **TANO GROUP, INC. and ROBERT BRACKEN,** **Defendants.**	**CIVIL CASE NO. 20-0003** **ORDER DENYING DEFENDANTS' SUCCESSIVE "PRE-ANSWER" RULE 12(b)(6) MOTION TO DISMISS PURSUANT TO RULE 12(g)(2) AS A PARTY IS PROHIBITED FROM FILING SUBSEQUENT RULE 12 MOTIONS ASSERTING PREVIOUSLY AVAILABLE DEFENSES THAT WERE NOT RAISED IN THE INITIAL RULE 12 MOTION TO DISMISS; SUCH DEFENSES MUST INSTEAD BE RAISED AS AUTHORIZED BY RULE 12(h)(2), RULE 7(a), RULE 12(c), OR AT TRIAL**

I. INTRODUCTION

THIS MATTER came before the Court on September 22, 2020, at 2:30 p.m., on Defendants' second Motion to Dismiss[1]. Plaintiffs General Asia Pacific Consulting LLC ("GAP") and Matt Beck ("Beck") were represented by Attorney Cong Nie. Defendants Tano Group, Inc. ("Tano Group") and Robert Bracken ("Bracken") were represented by Attorney Victorino DLG. Torres.

II. LEGAL STANDARD

A. Rule 12(b)(6) Motion to Dismiss for Failure to State a Claim

The filing of a Rule 12(b)(6) motion must be made before filing a pleading if a responsive pleading is allowed. NMI R. CIV. P. 12(b). However, if a pleading sets out a claim for relief that does

[1] As to Defendant's second Motion to Dismiss, the Plaintiffs filed their Opposition on June 11, 2020. Defendants did not file a Reply.

not require a responsive pleading, an opposing party may instead assert any defense to that claim at trial. *Id.* The filing of a Rule 12(b) motion alters the time limits prescribed by the Northern Mariana Islands Rules of Civil Procedure (the "CNMI Rules") for serving as a responsive pleading. Unless the court sets a different time, the responsive pleading must be served within 14 days after notice of the court's action, if the court denies the motion or postpones its disposition until trial. NMI R. CIV. P. 12(a)(4)(A). If the court grants a motion for a more definite statement, the responsive pleading must be served within 14 days after that more definite statement is served. NMI R. CIV. P. 12(a)(4)(B).

Rule 8(a)(2) of the CNMI Rules states that a pleading "shall contain . . . a short and plain statement of the claim showing that the pleader is entitled to relief." A court may dismiss a plaintiff's complaint for "failure to state a claim upon which relief can be granted." NMI R. CIV. P. 12(b)(6). A Rule 12(b)(6) motion tests the legal sufficiency of the claims asserted in a complaint. *Camacho v. Micronesian Dev. Co.*, 2008 MP 8 ¶ 10. To survive a Rule 12(b)(6) motion to dismiss, a "complaint must contain either direct allegations on every material point necessary to sustain a recovery on any legal theory, […] or contain allegations from which an inference fairly may be drawn that evidence on these material points will be introduced at trial." *Atalig v. Mobil Oil Mariana Islands, Inc.*, 2013 MP 11 ¶ 23 (quoting *In re Adoption of Magofna*, 1 NMI 449, 454 (1990)) (citations omitted). When deciding a Rule 12(b)(6) motion to dismiss, the Court must assume that all factual allegations in the challenged pleading are true and construe them in the light most favorable to the non-moving party. *Id.* (quoting *Syed v. Mobil Oil Mariana Islands, Inc.*, 2012 MP 20 ¶ 22); *see also Cepeda v. Hefner*, 3 NMI 121, 127-128 (1992); *Govendo v. Marianas Pub. Land Corp.*, 2 NMI 482, 490 (1992).

However, plaintiffs cannot base their complaints "solely on unsupported legal conclusions since such conclusions do not constitute direct or indirect allegations." *Syed v. Mobil Oil Mariana Islands, Inc.*, 2012 MP 20 ¶ 21. Additionally, though the Supreme Court of the Commonwealth of

the Northern Mariana Islands ("Commonwealth Supreme Court") has declined to follow the federal "plausibility" standard outlined in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), and *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007), see *Syed*, 2012 MP 20 ¶ 17, if the plaintiff's complaint "lacks sufficient factual accompaniment, a court must examine whether the allegations reasonably suggest that the claimant will produce substantiating evidence." *Atalig v. Mobil Oil Mariana Islands, Inc.*, 2013 MP 11 ¶ 23 (citation omitted). "A statement of facts that merely creates a suspicion that the pleader might have a right of action' is insufficient." *Id*. (quoting *Rios v. City of Del Rio*, 444 F.3d 417, 421 (5th Cir. 2006)). This is because "Rule 8(a)(2) does not permit a plaintiff to bring purely speculative claims." *Id*. Furthermore, the court "has no duty to strain to find inferences favorable to the plaintiff." *Cepeda*, 3 NMI at 127-28.

B. Rule 12(g)(2) Limitation on Further Motions

Rule 12(g)(2) of the Northern Mariana Islands Rules of Civil Procedure states that, apart from the exceptions provided for in Rule 12(h)(2) or (3), a party that makes a motion under Rule 12 "must not make another motion under this rule raising a defense or objection that was available to the party but omitted from its earlier motion."[2] "The plain language of Rule 12(h)(2) articulates limited exceptions to the consolidation requirement for, among other things, the filing of Rule 12(c) motions. By its terms, this exception does not extend to successive Rule 12(b)(6) motions." *Hunt v. Hamm*, No. Civ. 15-960 SCY/WPL, 5 (D.N.M. May. 31, 2016) (applying the equivalent Federal Rules of Civil Procedure and finding the defendant's successive Rule 12(6)(b) motion to be prohibited by the plain language of Rule 12(g)(2), as Rule 12(h)(2) does not list Rule 12(b)(6) motions among the exceptions to Rule 12(g)(2)'s consolidation requirements).

[2] Rule 12(h)(2) provides that failure to state a claim upon which relief can be granted, to join a person required by Rule 19, or to state a legal defense to a claim may be raised in any pleading under Rule 7(a), in a motion for judgment on the pleadings under Rule 12(c), or at trial. Rule 12(h)(3) provides for an exception for a court determination of lack of subject-matter jurisdiction.

However, a defendant who omits a defense under Rule 12(b)(6) does not waive that defense: while it cannot be asserted in a later pre-answer motion under Rule 12(b)(6), it may be raised: (a) in any pleading allowed or ordered under Rule 7(a); (b) by a motion under Rule 12(c); or (c) at trial. NMI R. CIV. P. Rule 12(h)(2); *see also, with respect to the equivalent Federal Rules of Civil Procedure, In re Apple iPhone Antitrust Litig.*, 846 F.3d 313, 318-319 (9th Cir. 2017).

If a party files a successive Rule 12(b)(6) motion to dismiss prior to filing an Answer to a Plaintiff's Complaint, for defenses that a Plaintiff could have raised in its earlier Rule 12 motion, the later motion should be denied pursuant to the plain language of Rule 12(g)(2). *Id.; see also Gardner v. Starkist Co.*, Case No. 19-CV-02561-WHO, 2020 WL 1531346 *304, 306-307 (C.D. Cal. Mar. 31, 2020)(denying a successive Rule 12(b)(6) motion aimed at an amended complaint because the defense could have been brought in an earlier motion aimed at the pre-amended complaint). In considering the equivalent Federal Rules of Civil Procedure ("Federal Rules"), the Ninth Circuit read Rule 12(g)(2) in light of the general policy expressed in Rule 1 of the Federal Rules, directing that the Rules "be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding." FED. R. CIV. P. 1; *In re Apple iPhone Antitrust Litig., supra.* Read in this light, Rule 12(g) "is designed to avoid repetitive motion practice, delay, and ambush tactics." *Id.* The application of Rule 12(g)(2) does not require a finding of bad faith or dilatory tactics. *See, e.g., In re Packaged Seafood Products Antitrust Litigation*, 277 F. Supp. 3d 1167, 1175 (S.D. Cal. 2017) (applying Rule 12(g)(2) to bar a successive motion to dismiss even though the court specifically noted that the defendants had a valid belief to advance the successive motion to dismiss).

III. BACKGROUND

On August 1, 2018, Tano Group and GAP, through their respective owners Bracken and Beck, signed a written agreement (the "First Agreement") entitled "Tano Group and GAP Consulting

Agreement." The First Agreement provided that any new project undertaken by Tano Group "shall be managed by Mr. Matt Beck, owner of GAP CONSULTING," and for his management and consulting services Mr. Beck was to receive compensation of $5,000.00 per month.[3]

On October 1, 2018, Tano Group and GAP, once again through their respective owners Bracken and Beck, signed another written agreement (the "Second Agreement") entitled "Tano Group and GAP Consulting Agreement." The Second Agreement also provided that any new project undertaken by Tano Group would be "managed by Mr. Matt Beck, owner of GAP CONSULTING." Additionally, the Second Agreement provided that GAP will undertake labor and material resourcing, track project financials, and be the primary point of contact with the client for assigned projects. Base compensation under the Second Agreement was $10,000.00 per month, in addition to payment equal to 5% of the total amount billed on all assigned projects per month.[4]

Around October 2019, Defendant Bracken fired Plaintiff Beck, allegedly for two reasons: first, Bracken did not want to pay Beck and GAP the compensation agreed upon in the two agreements; and second, Beck complained to the Defendants regarding their unfair and deceptive business practices and their failure to provide workplace safety for employees. On January 6, 2020, Plaintiffs Beck and GAP filed a complaint alleging two causes of action:

a. Breach of contract against Tano Group; and

b. Wrongful termination in violation of public policy against Tano Group and Bracken.

[3] Here the Court does not make a factual finding, but rather, in its analysis of the sufficiency of the challenged pleading under Rule 12(b)(6), assumes that all factual allegations in that pleading are true and construes them in the light most favorable to the non-moving party. *See Atalig, supra,* at ¶ 23 (quoting *Syed v. Mobil Oil Mariana Islands, Inc.*, 2012 MP 20 ¶ 22).

[4] Here, once again, the Court does not make a factual finding, but assumes the alleged facts in the challenged pleading to be true for the purposes of the Rule 12(b)(6) analysis. *See footnote 3.*

On February 28, 2020, Defendants Tano Group and Bracken filed a motion to dismiss ("First Motion to Dismiss"), addressing only the complaint against Bracken and the Plaintiffs' demand for attorney's fees. In this First Motion to Dismiss, Defendants Tano Group and Bracken did not move to dismiss Beck as a plaintiff.

On March 19, 2020, pursuant to Rule 15(a)(1) allowing amendment as a matter of course, Plaintiffs filed a First Amended Complaint ("FAC") alleging three causes of action:

a. Breach of contract against Tano Group;

b. Wrongful termination in violation of public policy against Tano Group; and

c. Alter ego against Bracken.

The differences between Plaintiffs' Complaint and the FAC are twofold: first, Plaintiffs retain the breach of contract claim against Tano Group; and second, Plaintiffs narrow the wrongful termination claim by bringing this claim only against Tano Group instead of both Tano Group and Bracken. The only substantial difference is the addition of the alter ego claim, which the Defendants do not address in their Second Motion to Dismiss.

On April 29, 2020, Defendants filed a motion to dismiss ("Second Motion to Dismiss") the FAC, requesting that Beck be dismissed from the lawsuit as a plaintiff.

On June 11, 2020, Plaintiffs filed an Opposition to the Second Motion to Dismiss.

Defendants have not filed an answer to the FAC.[5]

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[5] As noted above, Defendants did not file a Reply to the Opposition to the Second Motion to Dismiss.

IV. DISCUSSION

A. Defendants' Second Rule 12(b)(6) Motion to Dismiss

Defendants argue that Plaintiff Beck, as merely an incidental beneficiary of the two agreements, has no standing to enforce the contractual obligations of those agreements absent language expressly conferring such benefit. Defendants argue that for this reason, Plaintiff Beck's breach-of-contract claim and wrongful termination claim should be dismissed, and Plaintiff Beck should be dismissed from the Suit.

Plaintiffs contend that Plaintiff Beck is an intended third-party beneficiary of the two agreements, and as such, has standing to enforce the contractual obligations therein through both breach-of-contract and wrongful termination claims.

(1) The Breach-of-Contract Claim

With respect to the breach-of-contract claim, the issue is whether the FAC has sufficiently pled Plaintiff Beck's status as an intended third-party beneficiary.

Defendants argue that Plaintiff Beck (i) did not sign the First Agreement or the Second Agreement in his personal capacity; and (ii) is not an intended third-party beneficiary of either agreement and therefore has no standing to enforce the contractual obligations of the First Agreement or the Second Agreement. Defendants therefore contend that Plaintiff Beck's breach-of-contract claim should be dismissed.

Plaintiffs do not argue that Beck signed the two agreements in his personal capacity, but do contend that Beck is an intended third-party beneficiary of both agreements, and as such, has standing to enforce the contractual obligations therein.

An intended third-party beneficiary of a contract may bring a breach-of-contract claim, despite not being a party to the contract. *See Aplus Co., Ltd. V. Niizeki Int'l Saipan Co., Ltd.*, 2006

MP 12 ¶¶ 12-13 (as there is no written or customary law on the issue of third-party beneficiary contracts in the Commonwealth of the Northern Mariana Islands ("CNMI"), the Court, pursuant to 7 CMC § 3401, relied upon the Restatement (second) of Contracts). In section 302(1) of the RESTATEMENT (SECOND) OF CONTRACTS, three elements are required to establish intended beneficiary status: "(1) The parties have not agreed otherwise, (2) recognition of a right to performance is appropriate to effectuate the intention of the parties; and (3) the circumstances indicate that either the performance of the promise will satisfy an obligation or discharge a duty owed by the promisee to the beneficiary or the promisee intends to give the beneficiary the benefit of the promised performance."[6] *Id.* ¶ 14. With respect to the third element, the benefit in question is the benefit of performance — there is no requirement that the third party needs to profit from the performance. *See id.* ¶ 18.

Viewing the evidence in the light most favorable to the Plaintiffs GAP and Beck as the non-moving parties, the Court finds that the FAC does contain direct allegations on every material point necessary to sustain a recovery on the claim of breach-of-contract brought by an intended third-party beneficiary.

First, there does not appear to be any language or provision in the two agreements — nor any separate agreement between the parties — to limit the benefits of the contracts to GAP.

Second, it would be appropriate to recognize Plaintiff Beck's right of performance in light of what the parties intended to accomplish by their agreements. The First Agreement and Second Agreement provide that new projects undertaken by Tano Group are to be managed by Beck, and compensation for these services is to be paid to Beck. In order for the parties to achieve these objectives, Tano Group would need to employ Beck as a project manager for its new projects and

[6] Please note grammar inconsistency with respect to punctuation is in the original quotation.

make payments to or for the benefit of Beck. Consequently, the right of performance held by Plaintiff Beck is "not only appropriate, but necessary to effectuate the intention of the parties." *See Aplus, supra*, at ¶ 13.

Third, the circumstances indicate that the promisee, GAP, intended to give the beneficiary, Beck, the benefit of the promised performance. Both the First Agreement and the Second Agreement indicate that the compensation to be paid by Tano Group and Bracken is to be "paid to Mr. Matt Beck", and that any new project of Tano Group would be "managed by Mr. Matt Beck." Thus, under the terms of the agreement, the promised performance of monetary compensation for management services was made directly to Beck. This indicates that Beck was an intended beneficiary. *See Aplus, supra,* at ¶ 18 (finding facts supporting an intent to give benefit to a third party when the contract contains promises to buy properties directly from the third party, and to have the third party manage the project). Plaintiff Beck's affiliation with a contractual party, namely as the owner of GAP, does not necessarily destroy Beck's third-party beneficiary status. *See Aplus, supra,* at ¶ 2 (considering whether the defendant Niizeki International Saipan Co., Ltd. (NIS), owned by and therefore also an affiliate of a contractual party, was an intended third-party beneficiary in a joint venture agreement).

Construing the complaint in the light most favorable to the Plaintiffs and accepting all well-pleaded facts as true, the Court finds that a material question of fact remains over whether Beck is an intended beneficiary.

(2) The Wrongful Termination Claim

With respect to the wrongful termination claim, the issue is whether the FAC has sufficiently pled that Plaintiff Beck was terminated in violation of public policy, for his public policy-linked conduct, without any justification for his dismissal.

Defendants argue that the wrongful termination claim should be dismissed because Beck does not contend that he signed the two agreements in his personal capacity, and his signature as a

corporate officer does not render the agreements his personal contracts. Plaintiffs submit that it is not necessary for Beck to have signed the agreements in his personal capacity in order to establish a claim of wrongful termination as an employee of Tano Group.

A tort-based claim of wrongful termination requires that the plaintiff prove:

> (1) there is a clear public policy (clarity element); (2) discouraging the conduct in which he or she engaged would jeopardize the public policy (jeopardy element); (3) the public policy-linked conduct caused the dismissal (causation element); and (4) there is no overriding justification for the dismissal (absence of justification element).

Sablan v. Manglona, Civ. No. 04-0166 (Super. Ct. February 27, 2006) (Order at 3-4) (citing *Hubbard v. Spokane County*, 50 P.3d 602, 606 (Wash. 2002); *see also Greeley v. Miami Valley Maintenance Contractors, Inc.*, 551 N.E.2d 981 (Ohio 1990). The public policy-linked conduct, for example, might include a plaintiff's refusal to engage in illegal conduct as ordered by the defendant. *See, e.g., Tameny v. Atlantic Richfield Co.*, 27 Cal.3d 167, 178 (1980) (An employer cannot condition employment upon the requirement that an employee participate in unlawful conduct).

The Court notes that in the FAC, Plaintiffs have identified the public policy violated, including public policy against unfair and deceptive business practices and acts, and public policy requiring employers to provide workplace safety for employees. The Plaintiffs allege that Beck complained to the Defendants regarding their unfair and deceptive business practices and failure to provide workplace safety for employees. From this alleged fact, it can be inferred that discouraging the conduct in which Beck engaged, namely making a complaint to his employer regarding public policy violations, would jeopardize the public policy by permitting fraudulent business practices and workplace safety violations to continue.

With respect to the causation element, Plaintiffs allege that Bracken fired Beck because he did not want to compensate him as provided in the two agreements, and because Beck had complained about unsafe workplace conditions and fraudulent business practices. Furthermore, Plaintiffs allege

that at the time Defendant Bracken fired Beck, Bracken knew his reasons for Beck's termination were wrongful and unlawful. Viewing these alleged facts in the light most favorable to the Plaintiffs, the Court finds these alleged facts go to the absence of justification element.

Thus, the Court finds that the FAC contains either direct allegations on every material point necessary to sustain a recovery on the tort-based theory of wrongful termination, or contains allegations from which an inference fairly may be drawn that evidence on these material points will be introduced at trial. *See Atalig*, *supra* at ¶ 23 (quoting *In re Adoption of Magofna*, *supra*). The Court finds that a material question of fact remains over whether Beck was wrongfully terminated in violation of public policy.

Therefore, the Court, for the reasons stated above, denies Tano Group, Inc. and Robert Bracken's Second Rule 12(b)(6) motion to dismiss Plaintiff Matt Beck's breach-of-contract and wrongful termination claims.

B. The Defendants' Second Motion to Dismiss is barred by Rule 12(g)(2)

Given that the Defendants had yet to file an answer to the Plaintiffs' Complaint or FAC, the Defendants' Second Motion to Dismiss is a successive Rule 12(b)(6) motion. Rule 12(b)(6) motions are not listed in Rule 12(h)(2) among the limited exceptions to Rule 12(g)(2)'s consolidation requirements. *See Hunt v. Hamm*, No. Civ. 15-960 SCY/WPL, 3, 5 (D.N.M. May. 31, 2016). Thus, the plain language of Rule 12(g)(2) bars the Defendants' Second Motion to Dismiss. Before the Defendants can file any other Rule 12 motions asserting previously available defenses, the Defendants must file an answer to the Plaintiffs' most current version of its complaint, the FAC. *Id.*

However, Defendants argue that the filing of Plaintiffs' FAC "reset" and gave Defendants an opportunity to file the Second Motion to Dismiss without being barred by Rule 12(g)(2). The issue is whether a successive Rule 12(b)(6) motion aimed at an amended complaint contains defenses that could have been brought in an earlier motion aimed at the pre-amended complaint. *See Gardner*,

supra, at 307-308 (finding the defendant's second motion to dismiss violated Rule 12(g)(2)'s ban on successive Rule 12(b)(6) motions because the allegations raised in the amended complaint were not substantially different than those in the pre-amended complaint and therefore the defendant's argument could have been raised in its first motion to dismiss). Here, the allegations in the Complaint and the FAC are not substantially different: Plaintiffs retain the breach of contract claim against Tano Group, narrow the wrongful termination claim by bringing this claim only against Tano Group instead of both Tano Group and Bracken, and add the alter ego claim against Bracken. The only substantial difference between the Complaint and the FAC is the addition of the alter ego claim in the latter, a difference which the Defendants do not address in their Second Motion to Dismiss. Given that Defendants address only the breach-of-contract claim and the wrongful termination claim—neither of which is substantially different than in the original complaint—the Court finds that the Defendants' arguments in support of a request to dismiss Beck as a plaintiff could have been raised in its First Motion to Dismiss. Rule 12(g)(2) therefore applies.

Defendants have not offered any persuasive argument as to why Rule 12(g)(2) should not apply. Defendants ask the Court to exercise its discretion to hear the new arguments in the interests of judicial economy. Court consideration of a successive Rule 12(b)(6) motion to dismiss is barred under Rule 12(g)(2) to prevent unnecessary delay and waste of the court and parties time and resources. Rule 12(g)(2) stands for the principle of judicial economy and serves the public interest in having cases resolved efficiently. With the aim of reducing the backlog of cases, public policy favors alternative dispute resolution: the filing of an answer will trigger the requirement for a mediation assessment conference and the start of the mandatory mediation process. *See* Com. R. Mandatory Alternative Dispute Resolution § 1001 (c) and (e). The filing of successive Rule 12(b)(6) motions to dismiss thus delays the judicial process as a whole.

In sum, bringing successive "pre-answer" motions to dismiss undermines the principle of judicial economy and the public interest by delaying the judicial process, contributing to a backlog of cases in the CNMI judicial system and delaying the mandatory alternative dispute resolution process favored by CNMI public policy. *Cf. Hunt v. Hamm*, No. Civ. 15-960 SCY/WPL, 2016 WL 10565462 *3 (D.N.M. May 31, 2016) (noting that allowing parties to file successive Rule 12(b)(6) motions "delays the progress of a case").

Furthermore, as stated above, the parties are not absolutely barred from raising the defenses or objections that would have been raised in a successive or subsequent "pre-answer" Rule 12(b)(6) motion, given that, as provided for in Rule 12(h)(2), such defenses or objections may be raised: (a) in any pleading allowed or ordered under Rule 7(a); (b) by a motion under Rule 12(c); or (c) at trial. NMIR. CIV. P. Rule 12(h)(2); *see also, with respect to the equivalent Federal Rules of Civil Procedure, In re Apple iPhone Antitrust Litig.*, 846 F.3d 313, 318-319 (9th Cir. 2017). Considering the equivalent Federal Rules of Civil Procedure, the United States District Court for the District of New Mexico held, in *Hunt v. Hamm*, that "Rule 12(g) strikes a balance between efficiency and a preference for resolving cases on the merits by disallowing successive 12(b)(6) motions but permitting defendants to raise failure to state a claim defenses once an answer is filed." No. Civ. 15-960 SCY/WPL, 4 (D.N.M. May. 31, 2016).

Therefore, for the reasons stated above, the Court denies Tano Group, Inc. and Robert Bracken's Second Rule 12(b)(6) Motion to dismiss the breach-of-contract and wrongful termination claims of Plaintiff Matt Beck.

V. CONCLUSION

THEREFORE, for the reasons stated above, the Court DENIES Defendants' successive "Pre-Answer" Rule 12(b)(6) Motion to Dismiss pursuant to Rule 12(g)(2) as a party is prohibited

from filing other subsequent Rule 12 Motions to Dismiss asserting previously available defenses that were not raised in the initial Rule 12 Motion to Dismiss. The Northern Mariana Islands Rules of Civil Procedure provide that such defenses may instead be raised in accordance with Rule 12(h)(2), namely in any pleading allowed or ordered under Rule 7(a), by a motion under Rule 12(c), or at trial.

IT IS SO ORDERED this 2nd day of March, 2021.

/s/
JOSEPH N. CAMACHO, Associate Judge