

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BLANCA VALENZUELA, *et al.*,

Plaintiffs,

v.

SWIFT BEEF COMPANY, INC., *et al.*,

Defendants.

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Civil Action No. 3:06-CV-2322-N

ORDER

This Order addresses Defendants Swift Beef Company, Inc. and Swift & Company’s (collectively, “Swift”) motion to dismiss portions of the second amended complaint [57]. Because the Plaintiffs have still not sufficiently alleged facts in support of their previously dismissed claim, the Court grants Swift’s motion.

This is a putative class action brought on behalf of all persons legally authorized to be employed in the United States who have been employed at Swift’s processing plants as hourly wage earners. The plaintiffs allege that their wages were depressed because Swift illegally recruited and hired illegal aliens; they allege that Swift’s access to cheap and illegal labor provided Swift with the ability to bargain for lower wages in the collective bargaining process. They have filed suit against Swift as a corporate entity and against five John Does – unidentified members of Swift’s management (collectively, “Management”).

According to Plaintiffs, Management has committed RICO predicate offenses of *harboring* illegal aliens under 8 U.S.C. § 1324(a)(1)(a)(iii) and *hiring* illegal aliens under 8

U.S.C. § 1324(a)(3). The Court previously dismissed Plaintiffs' claims that were premised on allegations that Management had committed hiring offenses. *See* Order at 9 (December 20, 2007) [45]. The Court noted that the viability of Plaintiffs' illegal-hiring claims were dependent upon Management having had actual knowledge that the illegal aliens it hired were smuggled into the United States. *Id.* at 7-8. The Court further concluded that, in light of the Supreme Court's holding that a complaint must "include enough facts to state a claim to relief that is plausible on its face," *Bell Atlantic Corp. v. Twombly*, ___ U.S. ___, 127 S. Ct. 1955, 1965 (2007), Plaintiffs' had failed to allege the requisite actual knowledge of smuggling. *Id.* at 9.

Plaintiffs have filed a second amended complaint in order to reassert their illegal-hiring claims. Plaintiffs now allege that:

[Defendants] violated 8 U.S.C. § 1324(a)(3) by knowingly hiring for employment in any 12-month period at least 10 individuals with actual knowledge that they were illegal aliens. Moreover, the Swift Defendants had actual knowledge that such individuals had been brought into the United States in violation of 8 U.S.C. § 1324(a) and for the express purpose of illegal employment.

Second Amended Complaint at ¶ 44. Plaintiff's further claim that the above allegation is "more than adequate to state a claim for illegal hiring." Plaintiffs' Response at 3.

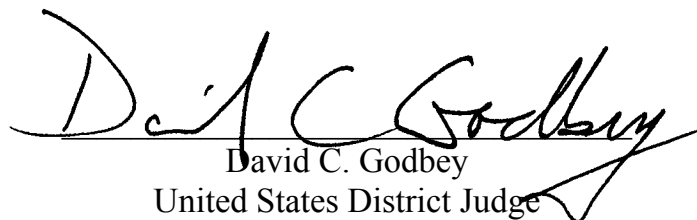
Plaintiffs have still not stated an illegal hiring claim. The Court reiterates that a plaintiff is required to provide "more than labels and conclusions, and a formulaic recitation of a cause of action will not do." *Twombly*, 127 S. Ct. at 1965. Because the Plaintiff has not met this burden, the Court dismisses, once again, Plaintiffs' illegal hiring claims.

Plaintiffs concede that they have made no material changes to the other allegations that the Court previously dismissed, and have replied them only to avoid a later claim of waiver. Accordingly, the Court again dismisses those claims as well.

CONCLUSION

Plaintiffs second amended complaint has not remedied the deficiencies that resulted in the Court, in its previous Order, dismissing many of Plaintiffs' allegations. Accordingly, the Court once again dismisses Plaintiffs' illegal hiring claims, this time with prejudice. The Court grants Swift's motion.

Signed May 28, 2008.


David C. Godbey
United States District Judge