

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 19-12474
Non-Argument Calendar

D.C. Docket No. 1:18-cv-04989-RLH

MICHAEL O. MONDY,

Plaintiff-Appellant,

versus

J. P. BOULEE,
Individual and Official Capacity,
MAGNOLIA ADVANCED MATERIALS, INC.,
NELSON MULLINS RILEY & SCARBOROUGH, LLP,
ERIKA CLARKE BIRG,
PETER L. MUNK,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia

(March 12, 2020)

Before WILLIAM PRYOR, MARTIN and ROSENBAUM, Circuit Judges.

PER CURIAM:

Michael Mondy appeals *pro se* the dismissal of his amended complaint against Judge J.P. Boulee of the Superior Court of DeKalb County and against Magnolia Advanced Materials, Inc., its law firm, Nelson Mullins Riley & Scarborough, LLP, and two attorneys from that firm. Mondy, an African-American attorney, complained that he had a right to withdraw from the representation of a client and that Magnolia, its counsel, and Judge Boulee, who are Caucasian, interfered with his right to do so for racially discriminatory reasons. 42 U.S.C. § 1981. The district court entered a separate judgment in favor of Judge Boulee, the appeal of which we have since dismissed as untimely. Mondy challenges the dismissal of his claims against Magnolia and its attorneys for failure to state a claim. *See* Fed. R. Civ. P. 12(b)(6). Because Mondy's complaint failed to allege a plausible claim of racial discrimination, we affirm.

We accept the allegations of Mondy's complaint as true and consider the attached exhibits. *See Am. Dental Ass'n v. Cigna Corp.*, 605 F.3d 1283, 1288 (11th Cir. 2010); Fed. R. Civ. P. 10(c). Magnolia sued Moses Langford in a Georgia court for breach of contract and for violating trade secrets, and Mondy appeared on behalf of Langford. After the trial court held Mondy in contempt for disclosing confidential information and Magnolia moved for an award of attorney's fees and

to compel discovery, Mondy moved to withdraw from the representation. Magnolia opposed Mondy's withdrawal and argued that it "would delay trial" and would "interrupt the orderly operation of the court." *See* Ga. Uniform Superior Ct. Rule 4.3(1). Judge Boulee later granted Magnolia's motions for attorney's fees and to compel discovery and reserved ruling on Mondy's motion to withdraw until Langford produced the discovery.

Mondy filed a complaint in the district court that Magnolia and its attorneys interfered with Mondy and "Langford's attorney-client contract" "because they were African-American." *See* 42 U.S.C. § 1981. Mondy alleged that Magnolia "had no factual reasons why Mr. Mondy should not be allowed to terminate the contract" and that Magnolia had not "listen[ed] [to] or watched any audio or video," "sp[oken] to any person," or "read any documents" that provided "a reasonable good faith belief that" Mondy's withdrawal "would delay a trial," "interrupt the orderly operation of the court," or be "manifestly unfair [to] Mr. Langford." Mondy also alleged that his "race was a motivating fact why Magnolia . . . wanted to interfere with Mr. Mondy's right to terminate the contract." Mondy attached to his complaint an email in which he informed his client that his withdrawal so close to trial might violate a Georgia Rule of Professional Conduct.

The district court dismissed Mondy's complaint against Magnolia. Fed. R. Civ. P. 12(b)(6). The district court stated that Mondy had "no right to withdraw[]

on demand” and that he alleged no facts to support his “naked conclusion” that Magnolia was “motivated by race or acted improperly in any respect” by opposing Mondy’s motion to withdraw. The district court rejected as “conclusory nonsense” Mondy’s allegations that the reasons Magnolia proffered for opposing his motion “could not have been true” or “suggest[ed] something else must have been afoot.”

We review *de novo* the dismissal of a complaint for failure to state a claim. *Hill v. White*, 321 F.3d 1334, 1335 (11th Cir. 2003). “To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A claim is facially plausible “when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* The complaint must contain “more than labels and conclusions”; its well-pled allegations must “nudge[] the[] claims across the line from conceivable to plausible.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

Section 1981 “protects the equal right of all persons within the jurisdiction of the United States to make and enforce contracts without respect to race.” *Moore v. Grady Mem’l Hosp. Corp.*, 834 F.3d 1168, 1171 (11th Cir. 2016) (alteration adopted) (internal quotation marks omitted). “[T]he term ‘make and enforce contracts’ includes the making, performance, modification, and termination of

contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.” 42 U.S.C. § 1981(b). “To state a claim of race discrimination under § 1981, a plaintiff must allege facts establishing: (1) that he is a member of a racial minority; (2) that the defendant intended to discriminate on the basis of race; and (3) that the discrimination concerned one or more of the activities enumerated in the statute.” *Moore*, 834 F.3d at 1171–72 (alterations adopted) (internal quotation marks omitted).

The district court did not err. Mondy had no absolute right to withdraw from representing Langford. Their relationship was governed by the Georgia Rules of Professional Conduct, which require “a lawyer [to] withdraw[] . . . in compliance with applicable laws and rules” and “[w]hen ordered to do so by a tribunal, . . . [to] continue representation notwithstanding good cause for terminating the representation.” Ga. Rules of Prof’l Conduct r. 1.16(c). And the allegations of Mondy’s complaint failed to support a plausible inference of racial discrimination. Magnolia and its attorneys opposed Mondy’s motion to withdraw because his absence would make it more difficult to obtain discovery from his client and would delay obtaining a judgment against him, which are legitimate, nondiscriminatory reasons to contest a lawyer’s request to withdraw. *See* Ga. Unif. Superior Ct. R. 4.3(1) (giving a judge “discretion to . . . [deny a motion to withdraw if it] would delay the trial or otherwise interrupt the orderly operation of the court or be

manifestly unfair to the client”). Because “the pleading standard Rule 8 announces . . . demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation,” *Iqbal*, 556 U.S. at 678, Mondy’s conclusory allegation that Magnolia acted with racial animus was insufficient to state a plausible claim.

We **AFFIRM** the judgment against Mondy’s complaint against Magnolia and its attorneys.