IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JUAN JOSE VAZQUEZ-MUNDO, Plaintiff, v. THE GEO GROUP INC., Defendant.	CIVIL ACTION FILE NO. 1:21-CV-1138-TWT

OPINION AND ORDER

This is a negligence action. It is before the Court on the Defendant's Motion for Judgment on the Pleadings [Doc. 12]. For the reasons set forth below, the Defendant's Motion for Judgment on the Pleadings [Doc. 12] is DENIED.

I. Background

The Plaintiff, Juan Jose Vazquez-Mundo, was detained at the Folkston Detention Center ("Folkston") in August 2018. (Compl. ¶ 13.) The Defendant, The GEO Group Inc. ("GEO Group"), is a Florida corporation that provided health services for Folkston detainees at all times relevant here. (*Id.* ¶ 2.) On December 18, 2018, the Plaintiff began complaining to detention officers about stomach pain. (*Id.* ¶ 14.) He was first taken to the medical unit early the following morning, where he was prescribed an over-the-counter laxative. (*Id.* ¶¶ 15, 17.) The Plaintiff returned eight hours later, still complaining of severe

pain that was moving down his abdomen. (*Id.* ¶¶ 18, 21.) The medical staff prescribed another laxative and an antacid. (*Id.* ¶ 22.) Later that evening, the Plaintiff again returned to the medical unit, complaining of vomiting and pain that prevented him from walking. (*Id.* ¶ 24.) The Plaintiff also presented a fever and a resting heart rate of 110 beats per minute. (*Id.* ¶¶ 25–26.) The Plaintiff was encouraged to drink fluids and to inform the staff if any symptoms worsened. (*Id.* ¶ 28.) For the next few days, the Plaintiff would return to the medical unit multiple times and was given Tylenol before being returned to his pod. (*Id.* ¶¶ 29–37.) On December 22, the Plaintiff was brought to the medical unit in a wheelchair and, after an examination, was placed under medical observation. (*Id.* ¶¶ 38–44.) The Plaintiff remained under observation until December 26, when he was sent to Southeast Georgia Health System's Camden Campus ("Camden"). (*Id.* ¶¶ 46–60.) After being admitted to Camden, the Plaintiff underwent emergency surgery to address a ruptured appendix, bowel perforation, acute lower urinary tract infection, and other conditions. (*Id.* ¶ 61.) The physicians at Camden performed a colectomy and an ileostomy, removing diseased portions of the Plaintiff's colon and stomach. (*Id.* ¶ 63.) The Plaintiff remained at Camden for twelve days, leaving on January 7, 2019. (*Id.* ¶ 65.) The Plaintiff brings one count of negligence under O.C.G.A. § 51-1-1 *et seq.*, arguing the Defendant is liable under *respondeat superior* for

the actions of its medical staff at Folkston. (*Id.* ¶¶ 72, 79.)[1]

II. Legal Standard

Federal Rule of Civil Procedure 12(c) allows a party to move for judgment on the pleadings "[a]fter the pleadings are closed—but early enough not to delay trial." A court should grant a motion for judgment on the pleadings where "there are no material facts in dispute and the moving party is entitled to judgment as a matter of law." *Scott v. Taylor*, 405 F.3d 1251, 1253 (11th Cir. 2005). "A motion for judgment on the pleadings is governed by the same standard as a motion to dismiss under Rule 12(b)(6)." *Carbone v. Cable News Network, Inc.*, 910 F.3d 1345, 1350 (11th Cir. 2018). A complaint should be dismissed under Rule 12(b)(6) only where it appears that the facts alleged fail to state a "plausible" claim for relief. *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009); Fed. R. Civ. P. 12(b)(6). A complaint may survive a motion to dismiss for failure to state a claim, however, even if it is "improbable" that a plaintiff would be able to prove those facts; even if the possibility of recovery is extremely "remote and unlikely." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556 (2007). In ruling on a motion for judgment on the pleadings, the Court must accept the facts pleaded in the complaint as true and construe them in the light

[1] The Court notes that a diversity of citizenship exists between the Parties. (Compl. ¶¶ 1–2.) The Plaintiff does not claim a specific amount of damages, but given the severity of the alleged injuries, the resulting medical costs, and the lack of any contrary argument from the Defendant, the Court finds the amount-in-controversy requirement has been met. The Court thus has diversity jurisdiction over this action.

most favorable to the nonmoving party. *Scott*, 405 F.3d at 1253.

III. Discussion

As the COVID-19 pandemic began to take hold of the country, then-Chief Justice Harold Melton of the Supreme Court of Georgia issued an Order Declaring a Statewide Judicial Emergency pursuant to his authority under O.C.G.A. § 38-3-61. (Compl., Ex. A., at 1.) This Order has been extended numerous times, with each extension providing changes or updates based on the contemporaneous state of the pandemic. (*Id.*) Collectively, these Orders have provided a wide variety of rules and guidance to assist judges, litigants, and court staff manage their responsibilities during a global pandemic. As relevant here, the Orders suspended, delayed, or tolled multiple deadlines imposed upon litigants. (*Id.* at 5–7.) The Orders effectively suspended the statute of limitations between March 14, 2020 and July 14, 2020. (*Id.* at 6.) With regards to calculating the statute of limitations, the Orders require that "[t]he 122 days between March 14 and July 14, 2020, or any portion of that period in which a statute of limitation would have run, shall be excluded from the calculation of that statute of limitation." (*Id.* at 7.) The Parties agree that if this Court applies the Orders, the Plaintiff's claim is not time-barred: the additional 122 days excluded by the Orders in the statute-of-limitation calculations allows for filing the Complaint on March 19, 2021.[2] However, the

[2] In the Defendant's Brief, it argued that the Plaintiff's understanding of the Orders was mistaken. (Def.'s Br. in Supp. of Def.'s Mot. for Judgment on

Defendant argues that the Orders are not binding upon this Court, as the Orders are merely "administrative order[s] governing the operations of the state court system." (Def.'s Reply Br. in Supp. of Def.'s Mot. for Judgment on the Pleadings, at 4.) As the Defendant notes, this Court "has issued its own administrative orders on the management of its court system and did not toll [the] statute of limitations or extend filing deadlines." (*Id.* at 4–5.) In response, the Plaintiff argues that a "state's statute of limitation is substantive law in a diversity action and is applied pursuant to the 'Erie Doctrine.'" (Pl.'s Br. in Opp'n to Def.'s Mot. for Judgment on the Pleadings, at 2.)

The Defendant argues that the Orders represent merely administrative directives. However, under Georgia law, these Orders possess more authority than the Defendant argues. Pursuant to O.C.G.A. § 38-3-62(a):

> An authorized judicial official in an order declaring a judicial emergency, or in an order modifying or extending a judicial emergency order, is authorized to suspend, toll, extend, or otherwise grant relief from deadlines or other time schedules or filing requirements imposed by otherwise applicable statutes, rules, regulations, or court orders, whether in civil or criminal cases or administrative matters, including, but not limited to:
>
> (1) A statute of limitation[.]

The Chief Justice of the Supreme Court of Georgia is an "authorized judicial official" under this statute. *See* O.C.G.A. § 38-3-60(1)(A). Thus, during an

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the Pleadings, at 6.) However, after the Plaintiff filed his Response Brief, the Defendant acknowledged the Plaintiff's interpretation of the Orders was correct. (Def.'s Reply Br. in Supp. of Def.'s Mot. for Judgment on the Pleadings, at 2.)

ongoing judicial emergency, the Chief Justice of the Georgia Supreme Court is permitted by statute to toll the statute of limitations in civil matters. Because the Chief Justice wields such statutory authority under a judicial emergency, the Orders are not mere administrative guidance; the Orders represent a legally operative change to Georgia's statutes of limitations. Thus, any evaluation of a claim's timeliness must contemplate the effect of the Orders on the relevant statute of limitations.

"Pursuant to the *Erie* doctrine, a state's statutes of limitation are substantive in nature and must be applied in a suit based on diversity jurisdiction." *Mississippi Valley Title Ins. Co. v. Thompson*, 802 F.3d 1248, 1251 n.2 (11th Cir. 2015). This Court, presiding over this diversity action, must apply Georgia's statutes of limitation. Here, the relevant statute of limitations—whether the general statute of limitations for injuries to person under O.C.G.A § 9-3-33 or the statute of limitations for medical malpractice under O.C.G.A. § 9-3-71—requires the Plaintiff's claims to be brought within two years of accrual. However, pursuant to his statutory authority, Chief Justice Melton extended that time period by 122 days for injuries that occurred prior to March 14, 2020. (*See* Compl., Ex. A., at 7.) Here, the Parties agree—and the Court concurs—that the Plaintiff filed this action within two years and one hundred twenty-two days, meaning the Plaintiff's claim is timely. As a result, the Defendant's Motion for Judgment on the Pleadings is denied.

IV. Conclusion

For the reasons set forth above, the Defendant's Motion for Judgment on the Pleadings [Doc. 12] is DENIED.

SO ORDERED, this 22 day of July, 2021.

/s/Thomas W. Thrash
THOMAS W. THRASH, JR.
United States District Judge