

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 12-61735-CIV-ZLOCH

BROWARD BULLDOG, INC.,
and DAN CHRISTENSEN,

Plaintiffs,

vs.

O R D E R

U.S. DEPARTMENT OF JUSTICE,
and FEDERAL BUREAU
OF INVESTIGATION,

Defendants.

THIS MATTER is before the Court upon Defendants' Motion To Dismiss Complaint (DE 5). The Court has carefully reviewed said Motion, the entire court file and is otherwise fully advised in the premises.

By the instant Motion (DE 5), Defendants seek dismissal of Plaintiffs' Complaint pursuant to Fed. R. Civ. P. 8(a)(2). Unlike a Rule 12(b)(6) challenge, which attacks a complaint's legal sufficiency, the instant Motion challenges the form rather than the substance of the Complaint. Defendant essentially takes issue with the detail with which Plaintiffs have pled the factual basis to their claim. The Court notes that Rule 8(a)(2) merely sets forth the minimum threshold requirement for pleadings. See Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 545 (2007) ("The need at the pleading stage for allegations plausibly suggesting (not merely consistent with) agreement reflects Rule 8(a)(2)'s threshold requirement that the 'plain statement' possess enough heft to

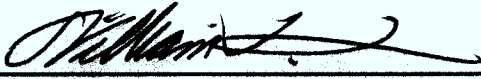
'sho[w] that the pleader is entitled to relief.'").

Further, with respect to whether the Federal Bureau of Investigation is a proper party to this type of lawsuit, the Court agrees with the Plaintiffs, that the Eleventh Circuit has permitted the FBI to be a named defendant in Freedom of Information Act cases. See, e.g., ELY v. F.B.I., 781 F.2d 1487 (11th Cir. 1986); Friedman v. F.B.I., 605 F. Supp. 306, 317 (N.D. Ga. 1981) (granting motion to dismiss other parties in a FOIA suit because "the proper party defendant to the instant action is the FBI").

Accordingly, after due consideration, it is

ORDERED AND ADJUDGED that Defendants' Motion To Dismiss Complaint (DE 5) be and the same is hereby **DENIED**.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 28th day of June, 2013.



WILLIAM J. ZLOCH
United States District Judge

Copies furnished:

All Counsel Of Record