DOCKET NO. NNH-CV-25-6158764-S	:	SUPERIOR COURT
CHRISTOPHER BEATTIE	:	JUDICIAL DISTRICT OF NEW HAVEN
v.	:	AT NEW HAVEN
HATEBREED, INC. AND JAMES SHANAHAN	: :	SEPTEMBER 25, 2025

MEMORANDUM OF LAW IN SUPPORT OF MOTION TO STRIKE

Pursuant to Practice Book § 10-39, Defendants Hatebreed, Inc. ("Hatebreed") and James Shanahan ("Shanahan") (collectively, "Defendants") move to strike Count One, Count Three, Count Four, and Count Six of Plaintiff Christopher Beattie's ("Plaintiff") Complaint.

PRELIMINARY STATEMENT

In this garden variety band break-up case, Plaintiff, a disgruntled former band member of the band known as "Hatebreed" (the "Band"), erroneously asserts a right to remain a permanent member of the Band in perpetuity despite the fact that the underlying relationship between the parties was terminable at-will. Plaintiff's Complaint is replete with frivolous legal conclusions without any factual support. Accordingly, it is respectfully submitted that Plaintiff's claims for breach of contract, the negligent infliction of emotional distress, unjust enrichment, and an accounting should be stricken as a matter of law.

FACTS

Plaintiff filed his six-count Complaint on July 30, 2025. The Complaint alleges Shanahan and Plaintiff co-founded the Band more than thirty years ago with Plaintiff serving as the Band's bassist. Complaint, ¶ 6. The Band operated pursuant to an alleged "implied agreement and understanding that Shanahan and Beattie were equal co-owners in the [B]and and [they were] entitled to their designated share of profits, royalties, and intellectual property rights." Id., ¶ 10. Approximately 10 years after the Band's formation, Hatebreed was formed on June 29, 2004 to

manage the Band's funds. Id., ¶¶ 11-12. Matthew Bryne ("Byrne") was added as a co-owner with the continued alleged "understanding and practice that the three [B]and members be involved in . . . decision-making and entitled to equal shares in profits." Id., ¶¶ 17-18.

Plaintiff, Shanahan, and Bryne apparently entered into a Band merchandise agreement on or about September 25, 2015, which provided the three would each be entitled to 25% of the sales revenue from Band merchandise and two other Band members would each receive 12.5% of the remaining sales revenue. Id., ¶ 14. Plaintiff purportedly experienced substantial delays in receiving Band merchandise sales proceeds and financial information. Id., ¶¶ 19, 21.

Plaintiff was terminated from his role in the Band on November 15, 2024. Id., ¶ 24. In terminating Plaintiff from the Band, Shanahan allegedly "cited" an incident occurring on or around November 9, 2024, at the Toyota Oakdale Theater in Wallingford, Connecticut, in which Plaintiff harassed a Live Nation security guard prior to a Band concert ("Live Nation incident"). Id., ¶ 27. Plaintiff claims his termination from the Band violated the "implied agreement" and stemmed from a false narrative surrounding the Live Nation incident. Id., ¶ 28.

Count One of the Complaint alleges Plaintiff and Defendants maintained an enforceable agreement which was violated when Plaintiff was removed from the Band, thereby excluding him from Band revenue streams. Id., ¶¶ 35-38. Count One is legally insufficient because it lacks any allegation of an enforceable agreement with Hatebreed along with terms entitling Plaintiff to Band membership and revenues in perpetuity.

Count Three of the Complaint claims Plaintiff encountered negligent infliction of emotional distress when Defendants terminated Plaintiff from the Band following the allegedly false Live Nation incident. Id., ¶¶ 43-47. Count Three is legally insufficient because the alleged conduct related to Plaintiff's termination does not amount to a cognizable claim.

Count Four of the Complaint alleges Defendants are unjustly enriched by retaining Plaintiff's contributions to the Band following his termination. Id., ¶¶ 48-52. Count Four is legally insufficient because an unjust enrichment cause of action is legally inconsistent with the implied breach of contract cause of action.

Count Six of the Complaint asserts Plaintiff is entitled to an accounting of the Band's funds and financial information. Id., ¶¶ 58-63. Count Six is legally insufficient because accounting is a remedy rather than a cognizable cause of action. Plaintiff fails to adequately plead the necessary demand and fiduciary relationship requirements to warrant an accounting.

DISCUSSION

A. Legal Standard.

"A motion to strike shall be used whenever a party wishes to contest: the legal sufficiency of the allegations of any complaint . . . to state a claim upon which relief can be granted . . . ." Practice Book § 10-39 (a)(1). "[A] motion to strike challenges the legal sufficiency of the pleading and, consequently, requires no factual findings by the trial court . . . ." (Internal quotation marks omitted.) *Geysen* v. *Securitas Security Services USA, Inc.*, 322 Conn. 385, 398, 142 A.3d 227 (2016). The Court "construe[s] the complaint in the manner most favorable to sustaining its legal sufficiency." Id. "A motion to strike is properly granted if the complaint alleges mere conclusions of law that are unsupported by the facts alleged." (Internal quotation marks omitted.) *Santorso* v. *Bristol Hospital*, 308 Conn. 338, 349, 63 A.3d 940 (2013).

B. The Breach of Contract Claim Should Be Stricken (Count One).

"In order to state a cause of action for breach of implied contract, the plaintiff must plead [(1)] that she and the defendant entered into a contract, [(2)] that [the plaintiff] performed her part of the contract, [(3)] that the defendant breached its duties as supplied by the contract, and [(4)]

that as a result, [the plaintiff] suffered damages." *Milne* v. *Filene's*, *Inc*., Superior Court, judicial district of Hartford, Docket No. CV-05-4018766-S (February 21, 2007, *Wiese*, *J*.) see also *Meyers* v. *Livingston, Adler, Pulda, Meiklejohn & Kelly, P.C.*, 311 Conn. 282, 291, 87 A.3d 534 (2014) ("The elements of a breach of contract claim are the formation of an agreement, performance by one party, breach of the agreement by the other party, and damages.").

Plaintiff wholly fails to allege that any agreement was concluded with Hatebreed, or Hatebreed's members, or that Plaintiff has an ownership interest in the Band's name. Nor does Plaintiff allege that he has not received record or publishing royalties in connection with recording projects that he worked on. Plaintiff claims Shanahan and Plaintiff maintained an "implied agreement" from the Band's inception that Plaintiff would be an "equal co-owner[]" and share in the Band's profits, royalties and rights. Complaint, ¶ 10. Hatebreed was later formed in June 2004. Id., ¶ 11. The Complaint is devoid of any allegation Hatebreed maintained an agreement with Plaintiff concerning his status with the Band or his entitlement to Band revenues. Without a written agreement with a term, Plaintiff's relationship with the Band was terminable at-will. See *Perry* v. *SBC/SNET*, Superior Court, judicial district of Ansonia-Milford, Docket No. CV-04-085367-S (September 12, 2005, *Moran*, *J.T.R*.) (finding no contractual commitment that "limited [defendant's] ability to terminate plaintiff's employment at will"); see also *Foley* v. *Interactive Data Corp.*, 47 Cal. 3d 654, 665, 765 P.2d 373, 254 Cal. Rptr. 211 (1988) ("Absent any contract, . . . the employment is 'at will,' and the employee can be fired with or without good cause."); see also *Sabetay* v. *Sterling Drug, Inc.*, 69 N.Y.2d 329, 333, 506 N.E.2d 919, 514 N.Y.S.2d 209 (1987) ("[A]bsent an agreement establishing a fixed duration, an employment relationship is presumed to be a hiring at will, terminable at any time by either party."). Count One should be stricken as to

Hatebreed because there is no allegation Plaintiff entered into an agreement with Hatebreed or Shanahan.

More broadly, Plaintiff fails to assert the performance of his obligations and Defendants' breach of any duties according to the "implied agreement." Plaintiff does not specify what obligations he needed to perform in order to secure his entitlement to Band membership and revenues. See Complaint, ¶¶ 36-37. Plaintiff also does not detail the breach of any duty on the part of Defendants to secure his membership in the Band and his share of Band revenues in perpetuity. See id.; *Ramirez* v. *Costco Wholesale Corp.*, Superior Court, judicial district of New Haven, Docket No. CV-11-6020832-S (May 2, 2012, *Wilson*, *J.*) (striking breach of implied contract claim for failure to allege a promise or binding obligation on defendant). Count One should be stricken for failure to state a claim.

C. The Negligent Infliction of Emotional Distress Claim Should Be Stricken (Count Three).

"To prevail on a claim of 'negligent infliction of emotional distress, the plaintiff must prove: (1) the defendant's conduct created an unreasonable risk of causing the plaintiff emotional distress; (2) the plaintiff's distress was foreseeable; (3) the emotional distress was severe enough that it might result in illness or bodily harm; and (4) the defendant's conduct was the cause of the plaintiff's distress.'" *Davidson* v. *Bridgeport*, 180 Conn. App. 18, 37, 182 A.3d 639 (2018), quoting *Grasso* v. *Connecticut Hospice, Inc.*, 138 Conn. App. 759, 771, 54 A.3d 221 (2012).

In the employment termination context, a negligent infliction of emotional distress claim "is maintainable only for conduct occurring in the termination of employment" and "[c]onduct justifying the termination . . is not itself the actual termination." (Internal quotation marks omitted.) *Grasso* v. *Connecticut Hospice*, *Inc*., supra, 138 Conn. App. 772. "Termination means ending, not the conduct which causes the ending." (Internal quotation marks omitted.) Id.; see also

Roman v. *United Illuminating Co.*, Superior Court, judicial district of New Haven, Complex Litigation Docket, Docket No. CV-14-6044689-S (May 12, 2015, *Wilson*, *J.*) ("[T]he plaintiff has failed to properly plead that this conduct occurred *during the termination process*." [Emphasis in original.]).

Plaintiff does not allege Defendants committed any wrongful conduct during the process of terminating his participation in the Band. Plaintiff merely alleges Defendants "abruptly terminated" Plaintiff from his role in the Band "based on unsupported and false allegations" connected to the Live Nation incident which resulted in his "emotional distress." Complaint, ¶ 44. Even if the Live Nation incident was "cited" as a "false narrative" for his termination, Plaintiff's allegations do not amount to a cognizable claim because the incident merely preceded his termination—it was not connected with the termination process itself. See id., ¶¶ 27-28; *Dean* v. *Liberation Programs, Inc.*, Superior Court, judicial district of Stamford-Norwalk, Docket No. CV-13-6018607-S (November 13, 2013, *Tobin*, *J.T.R.*) (holding alleged false statements prior to plaintiff's termination as non-actionable); *Reyes* v. *Bridgeport Dentist, LLC*, Superior Court, judicial district of Fairfield, Docket No. CV-14-6041367-S (June 18, 2015, *Kamp*, *J.*) ("Nowhere . . . does the plaintiff allege that the defendant's conduct causing her emotional distress occurred in the termination of her employment . . . .").

Plaintiff does not sufficiently plead that it was foreseeable to Defendants that Plaintiff's termination from the Band would cause him emotional distress. Plaintiff merely asserts "[Plaintiff's] distress was clearly foreseeable" which is insufficient conclusory pleading. See Complaint, ¶ 45; *Corniello* v. *Fuzion Medical Aesthetic Boutique, LLC*, Superior Court, judicial district of New Haven, Docket No. CV-14-6051182-S (August 26, 2015, *Wilson*, *J.*) ("[A] plaintiff's conclusory allegation that the plaintiff's distress was foreseeable without more, [is]

insufficient to satisfy the foreseeability element of a negligent infliction of emotional distress [claim]." [Internal quotation marks omitted.]); *Elisea* v. *CFC Stillwater, LLC*, Superior Court, judicial district of New Haven, Docket No. CV-14-6044056-S (April 2, 2015, Nazzaro, J.) (holding conclusory allegation of foreseeable emotional distress as insufficiently pled). Count Three should be stricken for failure to state a claim.

D. The Unjust Enrichment Claim Should Be Stricken (Count Four).

"[A] Plaintiff[] seeking recovery for unjust enrichment must prove (1) that the defendants were benefited, (2) that the defendants unjustly did not pay the plaintiff[] for the benefits, and (3) that the failure of payment was to the plaintiff['s] detriment." (Internal quotation marks omitted.) *Indoor Billboard Northwest, Inc.* v. *M2 Systems Corp.*, 202 Conn. App. 139, 179-80, 245 A.3d 426 (2021). Plaintiff claims he provided "decades-long contributions" to the Band, and his share of the Band's revenue is now being inequitably withheld by Defendants following his termination. See Complaint, ¶¶ 48-52. Plaintiff's unjust enrichment claim is insufficiently pled because Plaintiff fails to allege he is entitled to Band revenue in perpetuity after termination based simply on his prior contributions to the Band.

Since Count Four incorporates the allegations of Count One asserting his contractual right to Band revenue (Id., ¶¶ 35-38, 48), Plaintiff's unjust enrichment claim is impermissible because it is legally inconsistent with his breach of implied contract claim. *MBMB, LLC* v. *New Alliance Bank*, Superior Court, judicial district of New Haven, Docket No. CV-10-6011842-S (December 9, 2010, *Woods*, *J.*) (striking unjust enrichment claim as legally inconsistent with breach of contract claim); see also *Silktown Roofing* v. *Haynes Construction*, Superior Court, judicial district of Middlesex, Docket No. CV-05-4004864-S (August 3, 2006, *Dubay*, *J.*) (same). Count Four should be stricken.

E. The Accounting Claim Should Be Stricken (Count Six).

"In any judgment or decree for an accounting, the court shall determine the terms and principles upon which such accounting be had." General Statutes § 52-401. Plaintiff submits Defendants refused "multiple demands" for the accounting of the Band's finances, and Plaintiff is now "entitled to a full and complete accounting of all funds, assets, expenditures, disbursements, and transactions managed, received or expended by Defendants in connection with the operation of [the Band]." Complaint, ¶¶ 61, 63.

Plaintiff's accounting claim should be stricken because an accounting is a remedy rather than a substantive cause of action. *Macomber* v. *Travelers Property & Casualty Corp.*, 261 Conn. 620, 623, 804 A.2d 180 (2002); *AW Power Holdings, LLC* v. *FirstLight Waterbury Holdings, LLC*, Superior Court, judicial district of Hartford, Docket No. CV-14-6047836-S (February 17, 2015, *Peck*, *J.*); *Simko Law Firm, LLC* v. *Yale New Haven Health Services Corp.*, Superior Court, judicial district of Fairfield, Docket No. CV-07-5006228-S (March 24, 2008, *Frankel*, *J.*)

Even if there were a viable cause of action, Plaintiff fails to sufficiently allege the requisite demand for an accounting. "The general rule is that a prior demand by the plaintiff for an accounting and a refusal by the defendant to account is a prerequisite to the commencement of an action for accounting." (Internal quotation marks omitted.) *Episcopal Church in Diocese of Connecticut* v. *Gauss*, 302 Conn. 408, 452 n. 30, 28 A.3d 302 (2011); *Minella* v. *Minella*, Superior Court, judicial district of Hartford, Docket No. CV-21-6146943-S (October 20, 2023, *Connors*, *J.*). Aside from limited demands for the financials related to Band merchandise proceeds, Plaintiff provides only conclusory allegations of accounting demands which do not support a comprehensive review of all funds and transactions connected to the Band. See Complaint, ¶¶ 20-21, 61.

Plaintiff does not sufficiently allege a fiduciary relationship entitling Plaintiff to an accounting of the Band's entire finances. "To support an action of accounting, *one* of several conditions must exist. There must be a fiduciary relationship, *or* the existence of a mutual and/or complicated accounts, *or* a need of discovery, *or* some other special ground of equitable jurisdiction such as fraud." (Emphasis in original; internal quotation marks omitted.) *Mankert* v. *Elmatco Products, Inc.*, 84 Conn. App. 456, 460, 854 A.2d 766, cert. denied, 271 Conn. 925, 859 A.2d 580 (2004). Plaintiff only provides the conclusory allegation that "the parties were involved in a fiduciary relationship involving the management of the band Hatebreed and all related commercial operations." Complaint, ¶ 59. Plaintiff's conclusory assertion fails to demonstrate "the existence of a fiduciary relationship . . . characterized by a unique degree of trust and confidence" to warrant an accounting. *David Fuhrer Enterprises, LLC* v. *Add the Flavor, LLC*, Superior Court, judicial district of Stamford-Norwalk, Docket No. CV-13-6018002-S (October 9, 2013, *Adams*, *J.T.R.*); *Cf. Willie* v. *Pearce*, Superior Court, judicial district of Danbury, Docket No. CV-22-6042066-S (August 22, 2023, *Shaban*, *J.*). Count Six should be stricken for failure to state a claim.

THE DEFENDANTS,

HATEBREED INC. AND JAMES SHANAHAN

By: */s/ Thomas J. Riley*

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CERTIFICATE OF SERVICE

I hereby certify that the Memorandum of Law in Support of Motion to Strike was sent by electronic mail, this 25th day of September, 2025, to the following counsel of record.

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