

---

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

---

KELTON JOHNATHON SORENSON,

Plaintiff,

v.

JUDGE MELISA DE LA GARZA; JUDGE  
CYNTHIA CRUZ; and JUDGE BITA  
YAGER,

Defendants.

**ORDER OF DISMISSAL**

Case No. 4:20-cv-00074-DN

District Judge David Nuffer

---

An Order to Show Cause issued requiring Plaintiff to show cause as why this case should not be dismissed for lack of subject matter jurisdiction, for being frivolous, and for improper venue.<sup>1</sup> In response, Plaintiff made several filings:

- a Brief,<sup>2</sup> which quoted several paragraphs of the Federal Bar Pro Se Handbook and argued that the court lacked authority to issue the Order to Show Cause because Plaintiff was permitted to proceed *in forma pauperis*;
- a Motion<sup>3</sup> requesting the appointment of counsel;
- a Response to Order to Show Cause,<sup>4</sup> which again contained quotes from the Federal Bar Pro Se Handbook and argued that the court lacked authority to issue the Order to Show Cause because Plaintiff was permitted to proceed *in forma pauperis*;
- an untitled document,<sup>5</sup> which contained the same quotes from the Federal Bar Pro Se Handbook as Plaintiff's prior filings;

---

<sup>1</sup> Docket no. 6, filed July 15, 2020.

<sup>2</sup> Docket no. 11, filed July 20, 2020.

<sup>3</sup> Docket no. 12, filed Jul 21, 2020.

<sup>4</sup> Docket no. 13, filed July 22, 2020.

<sup>5</sup> Docket no. 14, filed July 30, 2020.

- an untitled document,<sup>6</sup> asserting that Plaintiff seeks \$166,000 in damages against each Defendant for failure to protect; and
- a Motion for Official Service of Process.<sup>7</sup>

None of Plaintiff's filings addressed or responded to the deficiencies identified in the Order to Show Cause.

A federal court has a duty to consider *sua sponte* whether it has subject matter jurisdiction whenever a question arises as to the existence of federal jurisdiction.<sup>8</sup> If the court determines that it lacks subject matter jurisdiction, it must dismiss the case.<sup>9</sup> Additionally, where a plaintiff proceeds *in forma pauperis*, "the court shall dismiss the case at any time if the court determines that . . . the action . . . is frivolous [or] fails to state a claim on which relief may be granted[.]"<sup>10</sup> These principles apply regardless of whether a plaintiff's application to proceed *in forma pauperis* is granted.

Plaintiff's Complaint<sup>11</sup> fails to properly allege diversity jurisdiction under 28 U.S.C. § 1332. And in responding to the Order to Show Cause, Plaintiff has not provided allegations establishing that "all parties on one side of the litigation are of a different citizenship from all parties on the other side of the litigation."<sup>12</sup> Additionally, Plaintiff's Complaint fails to properly allege federal question jurisdiction under 28 U.S.C. § 1331. The Complaint does not contain factual allegations to support a plausible claim for relief against any of the named Defendants. It is frivolous on its face. And in responding to the Order to Show Cause, Plaintiff has not provided

---

<sup>6</sup> Docket no. 15, filed July 31, 2020.

<sup>7</sup> Docket no. 16, filed August 5, 2020.

<sup>8</sup> *Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle*, 429 U.S. 274, 278 (1977).

<sup>9</sup> FED. R. CIV. P. 12(h)(3).

<sup>10</sup> 18 U.S.C. §§ 1915(e)(2)(B)(i), (ii).

<sup>11</sup> Docket no. 3, filed July 15, 2020.

<sup>12</sup> *Depex Reina 9 P'ship v. Texas Int'l Petroleum Corp.*, 897 F.2d 461, 463 (10th Cir. 1990).

allegations establishing a plausible claim for relief that is based on or arises under federal law.  
Therefore, federal subject matter jurisdiction is lacking.

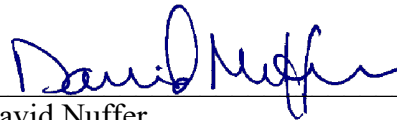
**ORDER**

IT IS HEREBY ORDERED that Plaintiff's Complaint and this action are DISMISSED  
without prejudice for lack of subject matter jurisdiction.

The Clerk is directed to close the case.

Signed August 10, 2020.

BY THE COURT

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer  
United States District Judge