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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

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Edwin Cortes,

No. CV-12-2204 PHX-DGC

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Plaintiff,

**ORDER**

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vs.

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State of Arizona,

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Defendant.

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Plaintiff commenced this action by filing a pro se complaint on October 15, 2012.

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Doc. 1. Plaintiff filed a motion to amend and amended complaint on October 22, 2012.

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Docs. 8, 9. Plaintiff has filed a motion to proceed in forma pauperis. Doc. 3. For reasons

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that follow, the Court will dismiss the complaint and deny the motions without prejudice.

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**I. Dismissal of the Complaint.**

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A complaint must plead “enough facts to state a claim to relief that is plausible on its

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face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). “The plausibility standard . . .

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asks for more than a sheer possibility that a defendant has acted unlawfully,” demanding

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instead sufficient factual allegations to allow “the court to draw the reasonable inference that

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the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949

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(2009). “[W]here the well-pleaded facts do not permit the court to infer more than the mere

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possibility of misconduct, the complaint has alleged – but it has not ‘show[n]’ – ‘that the

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pleader is entitled to relief.’” *Id.* at 1950 (citing Fed. R. Civ. P. 8(a)(2)).

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Plaintiff’s complaint does not satisfy the pleading requirements set forth in *Twombly*

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and *Iqbal*. The entirety of the complaint is an incoherent and disjointed, very brief story

1 about an event apparently involving the Phoenix Municipal Court. Doc. 9 at 2. On the front  
2 page, Plaintiff states that his claims relate to a federal question 28 USC § 1331, but it is  
3 unclear from the factual narrative how Defendant is liable for any such claims. *Id.* at 1. ]

4 Among its many defects, the complaint does not adequately allege subject matter  
5 jurisdiction. “Federal courts are courts of limited jurisdiction. They possess only that power  
6 authorized by Constitution and statute[.]” *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511  
7 U.S. 375, 377 (1994). Pursuant to federal statutes, this Court has subject matter jurisdiction  
8 over a case only if it arises under federal law or the amount in controversy exceeds \$75,000  
9 and the parties are citizens of different states. *See* 28 U.S.C. §§ 1331, 1332(a). The  
10 complaint does not explain why this Court has subject matter jurisdiction. The Court will  
11 dismiss the complaint without prejudice. Plaintiff shall have until **February 15, 2013** to file  
12 an amended complaint.

13 For purposes of the amended complaint, Plaintiff is directed to Rule 8 of the Federal  
14 Rules of Civil Procedure. Rule 8(a) provides that a complaint “shall contain (1) a short and  
15 plain statement of the grounds upon which the court’s jurisdiction depends, . . . (2) a short  
16 and plain statement of the claim showing that the pleader is entitled to relief, and (3) a  
17 demand for judgment for the relief the pleader seeks.” Fed. R. Civ. P. 8(a). These pleading  
18 requirements shall be set forth in separate and discrete paragraphs. The paragraphs must be  
19 numbered in consecutive order. Each paragraph must be “simple, concise, and direct.” Fed.  
20 R. Civ. P. 8(d)(1).

21 Plaintiff is advised that vague references are insufficient to satisfy the pleading  
22 requirements of Rule 8. The amended complaint must give each Defendant “fair notice of  
23 what [Plaintiff’s] claim is and the grounds upon which it is based.” *Holgate v. Baldwin*, 425  
24 F.3d 671, 676 (9th Cir. 2005). This includes some factual basis for each claim asserted and  
25 the specific legal theory supporting the claim. “Threadbare recitals of the elements of a  
26 cause of action, supported by mere conclusory statements, do not suffice.” *Iqbal*, 129 S. Ct.  
27 at 1949.

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1 **II. Plaintiff's Obligations.**

2 Plaintiff must become familiar with, and follow, the Federal Rules of Civil Procedure  
3 and the Rules of the United States District Court for the District of Arizona ("Local Rules").  
4 *See King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1986) ("Pro se litigants must follow the same  
5 rules of procedure that govern other litigants."); *Jacobsen v. Filler*, 790 F.2d 1362, 1364 (9th  
6 Cir. 1986) (pro se litigants "should not be treated more favorably than parties with attorneys  
7 of record"); *Carter v. Comm'r of Internal Revenue*, 784 F.2d 1006, 1008 (9th Cir. 1986)  
8 ("Although pro se, [plaintiff] is expected to abide by the rules of the court in which he  
9 litigates."). The Federal Rules of Civil Procedure are available at the following Internet  
10 website: <http://www.law.cornell.edu/rules/frcp/>. A copy of the Court's Local Rules of Civil  
11 Procedure may be obtained from the Clerk's Office.

12 Plaintiff is further advised that he is responsible for having the summons and  
13 complaint properly served on each Defendant within the time allowed by Rule 4(m) of the  
14 Federal Rules of Civil Procedure. *See* Fed. R. Civ. P. 4(c)(1). If Plaintiff fails to prosecute  
15 this action, or if he fails to comply with the rules or any Court order, the Court may dismiss  
16 the action with prejudice pursuant to Rule 41(b) of the Federal Rule of Civil Procedure. *See*  
17 *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir.1992); *Ghazali v. Moran*, 46 F.3d 52, 54  
18 (9th Cir. 1995).

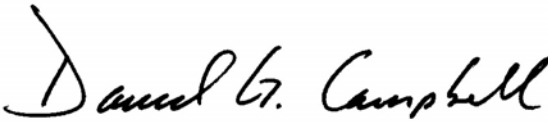
19 **IT IS ORDERED:**

- 20 1. Plaintiff's complaint (Doc. 1) is **dismissed** without prejudice. Plaintiff shall  
21 have until **February 15, 2013** to file an amended complaint.
- 22 2. Plaintiff's motion to amend (Doc. 8) is **denied**.
- 23 3. Plaintiff's motion to proceed inform a pauperis (Doc. 3) is **denied** without  
24 prejudice. Plaintiff may re-file the motion if he files an amended complaint.
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4. The Clerk is directed to terminate this action without notice if Plaintiff fails to comply with this order.

DATED this 15th day of January, 2013.



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David G. Campbell  
United States District Judge