

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MEMORANDUM

Case No. CV 12-297 DSF (FFMx)

Date 2/6/12

Title Occupy Los Angeles v. City of Los Angeles, et al.

Present: The Honorable DALE S. FISCHER, United States District Judge

Debra Plato

Not Present

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (In Chambers) Order to Show Cause re Dismissal

On January 11, 2012, the United States and other federal defendants removed a complaint filed by Mario G. Nitrini III, *pro se*, purportedly on behalf of Plaintiff “Occupy Los Angeles.” The complaint begins: “COMES NOW PLAINTIFFS in this Federal Lawsuit, organized and speaking as one from a General Assembly comprised from citizens of this community and recognized as the political movement OCCUPY LOS ANGELES”¹ Plaintiff lists the claims as “RICO,” “Negligence,” “Declaratory Relief,” “Temporary Restraining Order,” and “Damages; or, Attorney Fee’s.”

Mr. Nitrini has unilaterally and impermissibly changed the “name” of the “plaintiff” from “Occupy Los Angeles,” (Docket # 1, p. 16), to “Occupy Los Angeles, 1st Amendment Protesters,” (Docket # 8). Instead of listing himself in the area of the caption where counsel’s name should appear, as he had originally done, (Docket # 1, p. 16), he now lists “O.L.A. 1st A.P.,” (Docket # 8). It is not clear that “Occupy Los Angeles” or “Occupy Los Angeles, 1st Amendment Protesters” has the capacity to sue. Mr. Nitrini has not identified the nature of either entity and he has failed to state how this group is defined, how its members are affiliated, or how the Court could determine who might have the authority to direct litigation or otherwise make decisions on its behalf. Capacity to sue is determined by the law of California for state court claims. State law does not

¹ Although the action was filed in the Superior Court of California, County of Los Angeles, Plaintiff describes it as a “Federal Complaint” and a “Federal Lawsuit.”

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govern capacity of a plaintiff seeking to enforce a substantive right existing under the United States Constitution or laws. Fed. R. Civ. P. 17(b). Even if the plaintiff has capacity to sue, it must be represented by counsel.

The signature on the Demand for Jury Trial and Appointment of Counsel (Docket # 8), is unidentifiable and the document purports to be signed by “Occupy Los Angeles, In Pro Se, by CR Legal, SR.” The Court has no idea who or what CR Legal, SR is, or who now purports to represent Plaintiff.

Plaintiff is ordered to show cause why this action should not be dismissed for lack of an appropriate plaintiff and lack of counsel for the identified plaintiff. Plaintiff’s written response to this Order to Show Cause is due by February 21, 2012. The hearing on this Order to Show Cause is set for February 27, 2012. Failure to file a written response to this Order to Show Cause will result in dismissal.

The Court may not provide advice to *any* party, including persons who are not represented by a lawyer. (Such persons are known as “pro se litigants.”) However, this District does have a “Pro Se Clinic” that can provide information and assistance about many aspects of dealing with a lawsuit in this Court. The Clinic is run by Public Counsel, a non-profit public interest law firm, and it is staffed by lawyers and a paralegal. In order to benefit from the assistance the Clinic may be able to provide, you have to go there directly. The Clinic is open on Mondays, Wednesdays, and Fridays, from 9:30 a.m. to 12:00 noon and from 2:00 p.m. to 4:00 p.m. Clinic staff will see visitors during open hours on a first come, first served basis. If you arrive early in the day, you have a better chance of being seen promptly. The Clinic is located in Room 525 on the 5th Floor of the U.S. Courthouse at 312 N. Spring Street, Los Angeles, California.

Although the Clinic does not provide information telephonically, for further information about it you may call (213) 385-2977, ext. 270. In addition, the Court has information of importance to pro se litigants at the “Pro Se” link on its website, <http://www.cacd.uscourts.gov/cacd/ProSe.nsf/>.