

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANIEL RODRIGUEZ,
Plaintiff(s),
vs.
CITY AND COUNTY OF SAN FRANCISCO, et al.,
Defendant(s).

No. C 08-05257 MHP

**ORDER DISMISSING
COMPLAINT AND
DENYING IN FORMA
PAUPERIS
APPLICATION**

Plaintiff brings this action against the City and County of San Francisco and possibly others who he mentions in his complaint, including but not limited to Dr. Shiba and Luis Gonzales. The exact nature of his claims is not clear since his complaint is rambling and incoherent. It is also substantially the same as a number of similar complaints he has filed in other actions in this court over the last three years. Nearly all of them have involved claims of medical malpractice, including some of them against Drs. Shiba and Go, or claims of some kind of head or eye injury which are asserted against the City and County and others who appear to be employed by the City and County or working at a local hotel. Again, from this and his other complaints it is difficult to determine the gravamen of his claims.

What is clear is that this court has no jurisdiction over these claims since they are neither susceptible to diversity jurisdiction or based on a federal question. For these same reasons as well as failure to prosecute his actions the other complaints he has filed in this court have been dismissed.

The court notes that since 2006 plaintiff has filed thirteen actions:

- C-06-3412 JSW
- C-06-3415 MJJ
- C-06-3416 MMC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

C-06-5757 MJJ
C-06-5758 PJH
C-07-0103 MMC
C-06-6044 SBA
C-07-3518 MJJ
C-07-3519 JCS
C-08-2639 SI
C08-4645 SBA
C-08-5452 CRB
C-08-5257 MHP (the instant action).

A review of these cases reflects that nearly all of them involve the same parties referred to above and the same allegations, to the extent they can be deciphered. All of them have either been dismissed or, in the case of more recent ones, have dismissal motions pending.

Since federal district courts are courts of limited jurisdiction the court has an obligation to ascertain its jurisdiction before entertaining an action or granting *in forma pauperis* status. Having reviewed the complaint herein, this court finds that there is no basis for jurisdiction that can be divined from the papers plaintiff has filed. There is neither diversity nor federal question jurisdiction.

Furthermore, the court cannot tolerate the repeated filing of the same complaints. They are an abuse of the court's processes and time. Therefore, plaintiff is subject to pre-filing review of any complaint in which he attempts to assert the same claims described above. The Clerk of Court shall submit any complaint received from plaintiff to the General Duty Judge of this court for a determination as to whether the complaint may be filed. Accordingly,

IT IS HEREBY ORDERED that the complaint herein is DISMISSED and plaintiff's application to proceed *in forma pauperis* is DENIED.

IT IS FURTHER ORDERED that plaintiff's complaints are subject to pre-filing review by the General Duty Judge of this court based upon the foregoing.

Date: Janaury 28, 2009


MARILYN HALL PATEL
Judge
United States District Court
Northern District of California