

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

RONALD JAMES BARBIERI, et al.,

Plaintiffs,

No. C 12-1043 PJH

v.

**ORDER GRANTING MOTION  
TO DISMISS**

JAIME FIGUEROA, et al.,

Defendants.

\_\_\_\_\_ /

Pro se plaintiff Ronald James Barbieri filed this action on March 1, 2012, against defendants Jaime Figueroa, Susan Figueroa, Benjamin C. Graves, and the Law Offices of Benjamin C. Graves. Also named as a plaintiff in the complaint is Jeffrey-Thomas Smith.

On March 23, 2012, defendants filed a motion to dismiss the complaint, or, in the alternative, a motion to remand all claims to the Superior Court of California, County of Sonoma. Plaintiffs did not file an opposition to the motion within the time required under the Civil Local Rules.

The court has reviewed the complaint and the defendants' motion, and finds that the motion to dismiss must be GRANTED and the motion to remand must be DENIED.

The complaint is dismissed because it is incomprehensible and unintelligible. The court finds that plaintiffs have failed to assert "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). Dismissal under Federal Rule of Civil Procedure is appropriate because the indecipherable allegations of the complaint lack any cognizable legal theory or sufficient facts to support a cognizable legal theory. See Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir. 1990).

1           The motion to remand is DENIED. A case can be remanded to state court only if it  
2 was originally filed there, and was removed to federal court by the defendant. See 28  
3 U.S.C. § 1447. As this case was originally filed in this court, there is no rule authorizing  
4 remand.

5           The dismissal is with leave to amend. No later than May 14, 2012, plaintiffs may file  
6 an amended complaint that comports with the requirements of the Federal Rules of Civil  
7 Procedure and the Civil Local Rules of this court. The amended complaint must allege a  
8 basis for jurisdiction in this court; must state facts supporting the elements of the causes of  
9 action; must allege cognizable causes of action, which must be set forth in separate  
10 paragraphs; must specify which causes of action are asserted against which defendants;  
11 and must be presented in the required format, as set forth in Civil Local Rule 3-4. The  
12 court will dismiss the case if an amended complaint is not filed by the May 14, 2012  
13 deadline.

14           In addition, the court advises plaintiff Ronald James Barbieri that unless he is an  
15 attorney – which appears unlikely – he may not represent any one other than himself.  
16 Accordingly, if the other plaintiff named in the complaint intends to proceed in this case, his  
17 name must appear in the caption and he must sign any papers submitted to the court and  
18 served on defendants.

19           The May 2, 2012 hearing date is VACATED.

21 **IT IS SO ORDERED.**

22 Dated: April 12, 2012



\_\_\_\_\_  
PHYLLIS J. HAMILTON  
United States District Judge

23  
24  
25  
26  
27  
28