

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

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LEONARD D. ROSS,

Plaintiff,

No. C 13-04783 JSW

v.

SFGH, ET AL,

Defendants.

**ORDER DISMISSING
COMPLAINT**

On November 14, 2013, Magistrate Judge Elizabeth D. Laporte issued a Report and Recommendation, in which she recommended that Plaintiff's complaint be dismissed with leave to amend. On January 8, 2014, the Court adopted Magistrate Judge Laporte's Report and dismissed Plaintiff's complaint with leave to amend. The Court instructed Plaintiff to file an amended complaint by no later than February 7, 2014, and cautioned that failure to file an amended complaint that complied with the Federal Rules of Civil Procedure and federal jurisdictional requirements would result in dismissal of this action.

The Court has received numerous submissions from Plaintiff, including an amended complaint filed on February 4, 2014. However, none of Plaintiff's submissions sets out a claim falling under federal jurisdiction. Under 28 U.S.C. Section 1915(e)(2)(B), the Court is required to dismiss an action that is frivolous or fails to state a claim.

Federal Rule of Civil Procedure 8 ("Rule 8") requires plaintiffs to "plead a short and plain statement of the elements of his or her claim." *Bautista v. Los Angeles County*, 216 F.3d 837, 840 (9th Cir. 2000). Rule 8 requires each allegation to be "simple, concise, and direct."

1 Fed. R. Civ. P. 8(d)(1). Where the allegations in a complaint are “argumentative, prolix, replete
2 with redundancy and largely irrelevant,” the complaint is properly dismissed for failure to
3 comply with Rule 8(a). *McHenry v. Renne*, 84 F.3d 1172, 1177, 1178-79 (9th Cir. 1996); *see*
4 *also Nevijel v. North Coast Life Ins. Co.*, 651 F.2d 671, 673-74 (9th Cir. 1981) (affirming
5 dismissal of complaint that was “ ‘verbose, confusing and almost entirely conclusory’ ”).
6 “Something labeled a complaint but . . . prolix in evidentiary detail, yet without simplicity,
7 conciseness and clarity as to whom plaintiffs are suing for what wrongs, fails to perform the
8 essential functions of a complaint,” and “impose[s] unfair burdens on litigants and judges.”
9 *McHenry*, 84 F.3d at 1179-80.

10 A complaint that fails to comply with Rule 8 may be dismissed with prejudice pursuant
11 to Federal Rule of Civil Procedure 41(b). “The propriety of dismissal for failure to comply with
12 Rule 8 does not depend on whether the complaint is wholly without merit.” *McHenry* 84 F.3d
13 at 1179. Even if the factual elements of the cause of action are present, but are scattered
14 throughout the complaint and are not organized into a “short and plain statement of the claim,”
15 dismissal for failure to satisfy Rule 8 is proper. *Id.* at 1178.

16 The Court dismisses Plaintiff’s amended complaints because, after many efforts and
17 notwithstanding his efforts to set forth more than conclusory allegations, he has failed to plead a
18 short and plain statement of his claims.

19 Accordingly, the Court DISMISSES this action with prejudice. The Court shall enter a
20 separate judgment, and the Clerk shall close this file.

21
22
23
24
25
26
27
28

IT IS SO ORDERED.

Dated: June 27, 2014



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA
4

5 LEONARD D. ROSS,
6 Plaintiff,

Case Number: CV13-04783 JSW

CERTIFICATE OF SERVICE

7 v.

8 SFGH ET AL et al,
9 Defendant.
10 _____/

11 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.
12 District Court, Northern District of California.

13 That on June 27, 2014, I SERVED a true and correct copy(ies) of the attached, by placing
14 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
15 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office
16 delivery receptacle located in the Clerk's office.

17 Leonard D. Ross
18 2451 Sacramento Street, Apt. 908
19 San Francisco, CA 94115

20 Dated: June 27, 2014



Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk