

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-62647-CIV-DIMITROULEAS/SNOW

ELKINO DENARDO DAWKINS, SR.,

Plaintiff,

vs.

YAHOO, FACEBOOK, AND GOOGLE, INC.,

Defendants.

ORDER DISMISSING COMPLAINT WITHOUT PREJUDICE

THIS MATTER is before the Court *sua sponte*.

Plaintiff filed a Complaint and Motion to Proceed In Forma Pauperis on December 14, 2011. [DE 1, 3]. Because Plaintiff is requesting to proceed *in forma pauperis*, the screening provisions of 28 U.S.C. § 1915(e)(2) are applicable. That section requires the Court to dismiss the case at any time if the Court determines that the action is frivolous or fails to state a claim on which relief may be granted. 28 U.S.C. § 1915(e)(2).

“*Pro se* pleadings are held to a less stringent standard than pleadings drafted by attorneys and will, therefore, be liberally construed.” *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998). This leniency, however, does not give a court license to serve as de facto counsel for a party or to rewrite an otherwise deficient pleading in order to sustain an action. *GJR Investments, Inc. v. County of Escambia*, 132 F.3d 1359, 1369 (11th Cir. 1998); *Pontier v. City of Clearwater*, 881 F. Supp. 1565, 1568 (M.D. Fla. 1995). Furthermore, Rule 8(a) of the Federal Rules of Civil Procedure requires that a pleading shall contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a). Allegations that consist

of nothing more than legal conclusions are insufficient. *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949-50 (2009).

The material portion of Plaintiff's Complaint reads "I ... sue [Defendants] for the sum of two million dollars [for] violation of the Privacy Act as well as a breached privacy policy." The Complaint is devoid of factual allegations and is simply a legal conclusion. Therefore, it must be dismissed for failure to state a claim.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. Plaintiff Elkino Denardo Dawkins, Sr.'s Complaint [DE 1] is hereby **DISMISSED** with leave to refile an Amended Complaint by January 14, 2012, that comports with the Federal Rules of Civil Procedure, the Southern District of Florida Local Rules, and this Order.
2. In redrafting an amended complaint, the Plaintiff shall set forth each legal claim in a separate count. Further, each count shall state with specificity both the factual and legal basis for each claim it sets forth. Other numbered paragraphs may be incorporated by reference but this must be done with particular care so that only relevant paragraphs are referenced. It is impermissible to attempt a wholesale incorporation by reference of all preceding paragraphs. A failure to comply with this order may result in a dismissal with prejudice of this action.
3. Plaintiff's Motion for Leave to Proceed in Forma Pauperis [DE 3] is hereby **DENIED without prejudice**.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this

15th day of December, 2011.


WILLIAM P. DIMITROULEAS
United States District Judge

Copies furnished to:
Elkino Dawkins
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