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THE DISTRICT COURT OF GUAM

MICHAEL A. CHARGUALAF,

Plaintiff,

vs.

GUAM DAILY POST-CORE TECH, MINDY
AGUON, DAVID CASTRO, AND
ANTHONY PEREZ,

Defendants.

CIVIL CASE NO. 23-00024

**ORDER DISMISSING PLAINTIFF'S
COMPLAINT WITHOUT PREJUDICE**

13 Before the court is Plaintiff Michael A. Chargualaf's *pro se* Complaint. *See* Compl., ECF
14 No. 1. The court has reviewed Plaintiff's Complaint and deems it suitable for submission without
15 oral argument. For the reasons stated herein, the court hereby **DISMISSES** Plaintiff's Complaint
16 without prejudice.

17 **I. Background**

18 On November 7, 2023, Plaintiff filed his Complaint through a Pro Se 1 Form against
19 Defendants Guam Daily Post-Core Tech, Mindy Aguon, David Castro, and Anthony Perez
20 (collectively, the "Defendants"). *See id.*

21 In Section II of the Pro Se 1 form, Plaintiff marked the box labeled "Federal question" as
22 his basis for jurisdiction. *Id.* at 3. Plaintiff left blank the section that instructed him to "[l]ist the
23 specific federal statutes, federal treaties, and/or provisions of the United States Constitution that
24 are at issue in this case." *Id.* Although Plaintiff marked "Federal question" for the basis for

1 jurisdiction, Plaintiff filled out a portion of the diversity of citizenship option, specifically,
2 Section II(B)(3) which asks for “[t]he amount in controversy—the amount the plaintiff claims
3 the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs
4 of court[.]” *Id.* at 4. Plaintiff did not write an amount in controversy. Instead, he stated “mental
5 cruelty, mental stress, and emotional distress. Public embarrassment and humiliation, which
6 violates my civil rights to privacy, and court order violations.” *Id.*

7 Section III of the Pro Se 1 Form where it instructs Plaintiff to write a “short and plain
8 statement of the claim[.]” he wrote:

9 [p]rior to the interview I made specific demands that my identity will not
10 be revealed in public, like full name, and photographs to include videos
11 to Mindy Aguon, David Castro, and Anthony Perez and they all agreed to
12 my specific demands. I instructed the photographer David Castro to turn
13 off all cameras, and other recording devices and he assured me that he
14 already did so. But, he lied to me based on the newspaper story, and
15 pictures. And my full name published by Mindy Aguon and printed by
16 the guam daily post.

17 *Id.*

18 Section IV of the Pro Se 1 Form asks Plaintiff to “[s]tate briefly and precisely what
19 damages or other relief plaintiff asks the court to order.” Plaintiff did not state the relief he seeks
20 and, instead, he wrote:

21 mental cruelty, mental stress, and emotional distress. I suffered a heart
22 attack on Dec. 2020 because the amount of stresses and pressures that I
23 had to live with every single day and suffered a near fatal heart attack. I
24 have been bringing this [*sic*] concerns to the attention of Anthony Perez.
But, to no avail. Then on Dec. 2022 my last conversation with Anthony
Perez about this concern. He told me over the phone that I should not
worry about it because Mindy Aguon has resigned from the guam daily
post.

25 *Id.*

26 After a close review of the Pro Se 1 Form, the court discerns that Plaintiff is
27 bringing this action against the Defendants for publishing an article with his name and a
28

1 photograph or video recording contrary to his alleged instructions that his identity not be
2 revealed. *Id.* From what the court gathers, Plaintiff is arguing that he suffered a “near fatal”
3 heart attack, emotional and mental harm, public embarrassment and humiliation, and that
4 his alleged civil rights to privacy and court orders were violated. *Id.*

5 **II. Discussion**

6 **a. Legal Standard**

7 “It is a fundamental precept that federal courts are courts of limited jurisdiction.” *Owen*
8 *Equip. & Erection Co. v. Kroger*, 437 U.S. 365, 374 (1978). “Subject matter jurisdiction defines
9 the court's authority to hear a given type of case[.]” *Carlsbad Tech., Inc. v. HIF Bio, Inc.*, 556
10 U.S. 635, 639 (2009) (quoting *United States v. Morton*, 467 U.S. 822, 828 (1984)). Federal
11 courts are required to determine “*sua sponte* whether jurisdiction exists, regardless how the
12 parties have framed their claims.” *Naruto v. Slater*, 888 F.3d 418, 423 n.5 (9th Cir. 2018). While
13 doing so, the court will construe Plaintiff’s *pro se* pleadings liberally and give Plaintiff the
14 benefit of any doubt. *Butler v. Long*, 752 F.3d 1177, 1180 (9th Cir. 2014). If the court finds that
15 Plaintiff lacks subject matter jurisdiction, the court will dismiss the Complaint and “grant leave
16 to amend . . . unless it determines that the pleading could not possibly be cured by the allegation
17 of other facts.”¹ *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000) (quoting *Doe v. United*
18 *States*, 58 F.3d 494, 497 (9th Cir. 1995)).

19 **i. Standing**

20 A plaintiff must be able to meet the “jurisdictional prerequisite” of Article III standing
21 when bringing a federal claim. *Gerlinger v. Amazon.com Inc., Borders Grp., Inc.*, 526 F.3d 1253,
22 1255 (9th Cir. 2008). A Plaintiff is required to demonstrate that “it has suffered an [(1)] ‘injury

23 ¹ Pursuant to Federal Rule of Civil Procedure 12(h)(3), “[i]f the court determines at any time that it lacks subject-
24 matter jurisdiction, the court must dismiss the action.”

1 in fact’ that is [(2)] ‘fairly traceable’ to the defendant's conduct and [(3)] would likely be
2 ‘redressed by a favorable decision.’” *Collins v. Yellen*, 141 S. Ct. 1761, 1779 (2021) (quoting
3 *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560-61 (1992)). “The party invoking federal jurisdiction
4 bears the burden of establishing” standing, and “each element must be supported in the same way
5 as any other matter on which the plaintiff bears the burden of proof, *i.e.*, with the manner and
6 degree of evidence required at the successive stages of the litigation.” *Meland v. WEBER*, 2 F.4th
7 838, 843 (9th Cir. 2021) (quoting *Lujan*, 504 U.S. at 561). General factual allegations of injury
8 resulting from a defendant's conduct may be sufficient at the pleading stage. *Lujan*, 504 U.S. at
9 561.

10 1. *Injury in fact*

11 An injury in fact is “an invasion of a legally protected interest which is (a) concrete and
12 particularized and (b) actual or imminent, not conjectural or hypothetical.” *Lujan*, 504 U.S. at
13 560 (citations and quotations omitted). An injury is particularized if it “affect[s] the plaintiff in a
14 personal and individual way.” *Spokeo, Inc. v. Robins*, 578 U.S. 330, 339 (2016) (quoting *Lujan*,
15 504 U.S. at 560 n.1). The injury must also be concrete. *Id.* at 340. In other words, “it must
16 actually exist[,]” but the injury need not be tangible to be concrete. *Id.* In determining whether a
17 harm is “concrete[,]” courts consider “whether the alleged injury to the plaintiff has a ‘close
18 relationship’ to a harm ‘traditionally’ recognized as providing a basis for a lawsuit in American
19 courts.” *TransUnion LLC v. Ramirez*, 594 U.S. 413, 424-25 (2021) (quoting *Sprint Commc’ns*
20 *Co. v. APCC Servs., Inc.*, 554 U.S. 269, 274 (2008)).

21 Plaintiff does not meet his burden of demonstrating that he suffered injury in fact
22 because, although he alleges actual and particularized injuries, he fails to demonstrate that those
23 injuries are concrete in that they are legally protected interests. Plaintiff alleges actual injuries, to
24 wit: he suffered mental and emotional harm, public embarrassment and humiliation, and a “near

1 fatal” heart attack. They are particularized because they affected him in a “personal and
2 individual way.” *See* Compl. at 4, ECF No. 1 (quoting *Lujan*, 504 U.S. at 560 n.1).

3 They are, however, not concrete. To determine whether a plaintiff’s claim is concrete, the
4 court asks: “(1) whether the statutory provisions at issue were established to protect his concrete
5 interests (as opposed to purely procedural rights), and if so, (2) whether the specific procedural
6 violations alleged in this case actually harm, or present a material risk of harm to, such interests.”
7 *Robins v. Spokeo, Inc.*, 867 F.3d 1108, 1113 (9th Cir. 2017). Plaintiff’s Complaint is deficient
8 because it fails to demonstrate that the alleged injuries—emotional and mental harm, public
9 embarrassment and humiliation, and a “near fatal” heart attack—are related to a statutory
10 provision or a “harm traditionally recognized as providing a basis for a lawsuit in American
11 courts[,]” and if the Defendants’ violation of such a provision or harm injured him. *TransUnion*
12 *LLC*, 594 U.S. at 440 and Compl. at 4, ECF No. 1. Without more facts, Plaintiff’s Complaint
13 fails to allege an injury in fact. *See* Compl. at 4, ECF No. 1. Although Plaintiff alleges that court
14 orders and his civil rights were violated, Plaintiff did not identify which court orders were
15 violated and he also did not specify how, if at all, these violations of court orders would violate
16 any federal laws. Additionally, Plaintiff also failed to identify which civil rights to privacy were
17 violated and how. Therefore, the court finds that his claim is not concrete.

18 Based on the foregoing, Plaintiff did not meet his burden of demonstrating that he
19 suffered injury in fact.

20 2. Traceability and Redressability

21 The “fairly traceable” and “redressability” requirements overlap and are “two facets of a
22 single causation requirement.” *Wash. Env’t Council v. Bellon*, 732 F.3d 1131, 1146 (9th Cir.
23 2013) (quoting *Allen v. Wright*, 468 U.S. 737, 753 n.19 (1984), *abrogated on other grounds by*
24 *Lexmark Intern., Inc. v. Static Control Components, Inc.*, 572 U.S. 118 (2014)). The traceability

1 analysis “examines the connection between the alleged misconduct and injury, whereas
2 redressability analyzes the connection between the alleged injury and requested relief.” *Id.*

3 To satisfy traceability, Plaintiff must demonstrate that the injury can be traced to the
4 alleged conduct of the Defendants. *Collins*, 141 S. Ct. at 1779. There must also be a “causal
5 connection between the injury and the conduct complained of.” *Mecinas v. Hobbs*, 30 F.4th 890,
6 900 (9th Cir. 2022) (quoting *Lujan*, 506 U.S. at 560). Plaintiff must be able to “establish a ‘line
7 of causation’ between [D]efendants’ action and their alleged harm that is more than
8 ‘attenuated.’” *Maya v. Centex Corp.*, 658 F.3d 1060, 1070 (9th Cir. 2011). Plaintiff’s claim of
9 Defendants’ alleged conduct and the injuries stated lack sufficient facts to enable the court to
10 determine whether the injury can be traced to the alleged conduct of the Defendants.

11 “Redressability is satisfied so long as the requested remedy ‘would amount to a
12 significant increase in the likelihood that the plaintiff would obtain relief that directly redresses
13 the injury suffered.’” *Mecinas*, 30 F.4th at 900 (quoting *Renee v. Duncan*, 686 F.3d 1002, 1013
14 (9th Cir. 2012)). A Plaintiff need not demonstrate that the harm would be redressable with
15 “certainty, but only a substantial likelihood that the injury will be redressed by a favorable
16 judicial decision.” *Bellon*, 732 F.3d at 1146. Here, Plaintiff’s Complaint is not redressable
17 because he does not base his Complaint on a statutory provision or a “harm traditionally
18 recognized as providing a basis for a lawsuit in American courts[,]” and if the Defendants’
19 violation of such a provision or harm injured him. *TransUnion LLC*, 594 U.S. at 440.

20 ii. Diversity Jurisdiction

21 It is unclear to the court on what jurisdictional basis Plaintiff brings his Complaint under,
22 because as noted above, Plaintiff checked off “Federal question” but also filled out the “amount
23 in controversy” under the diversity jurisdiction section. *See* Compl. at 1 & 4, ECF No. 1.
24 Therefore, the court will address both jurisdictional bases.

1 For a Plaintiff to assert diversity jurisdiction, two requirements must be met, (1) the
2 amount in controversy, exclusive of interest and costs, is more than \$75,000 and (2) the matter is
3 between citizens of different states or subjects of a foreign state. *Seismic Reservoir 2020, Inc. v.*
4 *Paulsson*, 785 F.3d 330, 334 (9th Cir. 2015) and *see* 28 U.S.C. § 1332(a)(2). Plaintiff's
5 Complaint states that he is from Texas, but the Complaint does not address where the Defendants
6 are domiciled.² However, even if Plaintiff and Defendants are citizens of different states,
7 Plaintiff fails to claim any amount in controversy. Therefore, the court finds that diversity
8 jurisdiction is lacking because Plaintiff did not indicate where the Defendants are domiciled and
9 also failed to state an amount in controversy. Based on the foregoing, the court finds that subject
10 matter jurisdiction pursuant to 28 U.S.C. § 1332 does not exist.

11 iii. Federal Question Jurisdiction

12 Courts use the “well-pleaded complaint rule” to determine whether a complaint has been
13 brought under federal law. *Moore-Thomas v. Alaska Airlines, Inc.*, 553 F.3d 1241, 1243 (9th Cir.
14 2009) (quoting *Toumajian v. Frailey*, 135 F.3d 648, 653 (9th Cir. 1998)). A complaint is well-
15 pled “when a federal question is presented on the face of the plaintiff's properly pleaded
16 complaint.” *Id.* (quoting *Valles v. Ivy Hill Corp.*, 410 F.3d 1071, 1075 (9th Cir. 2005)).

17 Plaintiff's Complaint asserts that his civil rights to privacy and court orders were violated
18 when his name and photograph or video were published after he instructed the Defendants not to
19 reveal his identity. *See* Compl. at 4, ECF No. 1. Plaintiff's Complaint is deficient because it fails
20 to “establish[] either that federal law create[d] the cause of action or that the [P]laintiff's right to

21 ² Under diversity jurisdiction, “[a] person's state of citizenship is established by domicile, not simply residence, and
22 a residential address [in a certain state or territory] does not guarantee that the person's legal domicile” is in that
23 certain state or territory. *King v. Great American Chicken Corp., Inc.*, 903 F.3d 875, 879 (9th Cir. 2018). A person is
24 domiciled in their “permanent home, where [they] reside[] with the intention to remain or to which [they] intend[] to
return.” *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001). A corporation will be considered
domiciled in “every State and foreign state by which it has been incorporated and of the State or foreign state where
it has its principal place of business.” 28 U.S.C. § 1332(c)(1).

1 relief necessarily depends on resolution of a substantial question of federal law.” *Cook Inlet*
2 *Region, Inc. v. Rude*, 690 F.3d 1127, 1130 (9th Cir. 2012) (quoting *Empire Healthchoice*
3 *Assurance, Inc. v. McVeigh*, 547 U.S. 677, 689–90 (2006)). Although Plaintiff mentions he
4 suffered a violation of his civil rights to privacy, merely mentioning a civil rights violation is not
5 enough to establish a “substantial federal question.” *Cook*, 690 F.3d at 1130. Plaintiff also does
6 not specify what court orders he is referring to, and how, if at all, these violations of court orders
7 would violate any federal law. The court therefore finds that Plaintiff lacks subject matter
8 jurisdiction with respect to federal question jurisdiction pursuant to 28 U.S.C. § 1331.

9 **III. Conclusion**

10 The court finds that dismissal with leave to amend is warranted. It is not clear, based on
11 the facts alleged, whether Plaintiff’s claims would be futile. The court construes the *pro se*
12 Plaintiff’s pleadings liberally and gives the benefit of any doubt. *Butler*, 752 F.3d at 1180. If
13 Plaintiff chooses to file an amended complaint, Plaintiff must demonstrate to the court (1)
14 standing, specifically if there is injury in fact, that is fairly traceable to the Defendants’ conduct,
15 and that the injury would likely be redressed favorably by the court as well as specifying what
16 exactly are the rights of Plaintiff that are being violated; (2) the basis for the court’s jurisdiction:
17 if diversity jurisdiction, Plaintiff must demonstrate the amount in controversy is more than
18 \$75,000 and the matter is between citizens of different states or subjects of a foreign state and, if
19 federal question jurisdiction, Plaintiff must demonstrate a specific constitutional or statutory
20 right Plaintiff believes was violated. The amended complaint must be rewritten entirely and may
21 not incorporate any part of the dismissed Complaint by reference. Any cause of action not raised
22 in the amended complaint will be deemed waived.

23 For the reasons set forth herein, the court **DISMISSES** Plaintiff’s Complaint for lack of
24 subject matter jurisdiction without prejudice. Plaintiff has 60 days from the filing of this order to

1 file an amended complaint in compliance with the Federal Rules of Civil Procedure. Failure to
2 file the amended complaint by the deadline may result in the automatic dismissal of the above-
3 captioned matter without further notice from the court.

4 **SO ORDERED.**



/s/ Frances M. Tydingco-Gatewood
Chief Judge
Dated: Feb 16, 2024