

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

BRIAN M. DUNLAP,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:13-CV-2420-RWS
	)	
KOHL'S HEADQUARTERS, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court upon plaintiff's motion for leave to commence this action without prepayment of the filing fee [Doc. #2]. Upon consideration of the financial information provided with the motion, the Court finds that plaintiff is financially unable to pay any portion of the filing fee. As a result, plaintiff will be granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. Additionally, after carefully reviewing the complaint, the Court will dismiss this action pursuant to 28 U.S.C. § 1915(e)(2)(B).

**28 U.S.C. § 1915(e)**

Pursuant to 28 U.S.C. § 1915(e)(2)(B), the Court may dismiss a complaint filed in forma pauperis if the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is

immune from such relief. An action is frivolous if “it lacks an arguable basis in either law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 328 (1989). An action fails to state a claim upon which relief can be granted if does not plead “enough facts to state a claim to relief that is plausible on its face.” *Bell Atlantic Corp. V. Twombly*, 127 S. Ct. 1955, 1974 (2007).

In reviewing a pro se complaint under § 1915(e)(2)(B), the Court must give the complaint the benefit of a liberal construction. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). The Court must also weigh all factual allegations in favor of the plaintiff, unless the facts alleged are clearly baseless. *Denton v. Hernandez*, 504 U.S. 25, 32-33 (1992).

### **Discussion**

Plaintiff brings this action against “Kohl’s, WI - Consumer” and “Kohl’s, MN - Headquarters.” Having carefully reviewed the complaint, the Court finds it impossible to ascertain the nature of plaintiff’s allegations or what relief he seeks.<sup>1</sup>

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<sup>1</sup>The complaint is basically a list of random phrases, such as “Regardless what was said or any side deals,” “Scalia told me there are over 100 conditions - but law,” and “Any store CPA must be at least the value of returner CPA.” Moreover, plaintiff states that the grounds for filing this action in Federal Court are, as follows:

Lack of equal treatment under law & discrimination mental illness,  
diplomat immunity and Obama executive order and will not return  
4,500 for 5 months and promptly sold knowing fraudulent goods.  
Divorce from current duties Obama, Scalia & Roberts see each

The Federal Rules of Civil Procedure require litigants to formulate their pleadings in an organized and comprehensible manner. Even pro se litigants are obligated to plead specific facts and proper jurisdiction and must abide by the Federal Rules of Civil Procedure; however, plaintiff has failed to do so in this case. *See U.S. v. Wilkes*, 20 F.3d 651, 653 (5th Cir. 1994); Fed.R.Civ.P. 8(a)(2)(complaint should contain short and plain statement of claims); Fed.R.Civ.P. 8(e)(2)(each claim shall be simple, concise, and direct); Fed.R.Civ.P. 10(b)(parties are to separate their claims within their pleadings “the contents of which shall be limited as far as practicable to a single set of circumstances”). Although the Court is to give plaintiff’s complaint the benefit of a liberal construction, the Court will not create facts or claims that have not been alleged. Plaintiff is required to set out not only his alleged claims in a simple, concise, and direct manner, but also the facts supporting his claims as to each named defendant. Because plaintiff has failed to do so, and the complaint is nonsensical, the Court will dismiss this action as legally frivolous.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff’s motion to proceed in forma pauperis [Doc. #2] is **GRANTED**.

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weekend working at White House.

**IT IS FURTHER ORDERED** that the Clerk shall not issue process or cause process to issue upon the complaint, because the complaint is legally frivolous and fails to state a claim upon which relief can be granted. *See* 28 U.S.C. § 1915(e)(2)(B).

**IT IS FURTHER ORDERED** that plaintiff's motion for appointment of counsel [Doc. #4] is **DENIED** as moot.

A separate Order of Dismissal shall accompany this Memorandum and Order.

Dated this 9th day of December, 2013.

  
UNITED STATES DISTRICT JUDGE