

Plaintiff as recently as two months ago. *Id.* To remedy his mental anguish and emotional distress, Plaintiff requests monetary relief and detention for “the people of [the] University.” *Id.* On May 11, 2016, he filed a Complaint (Doc. No. 1), and on August 22, 2016, Defendants brought the present Motion to Dismiss (Doc. No. 8).

II. LEGAL STANDARD

The Court has “an independent obligation to determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party.” *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006) (citing *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583 (1999)); *see also* Fed. R. Civ. P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”). A district court has subject matter jurisdiction based on diversity of citizenship under 28 U.S.C. § 1332; “federal question” jurisdiction under 28 U.S.C. § 1331; or jurisdiction supplemental to the original claim under 28 U.S.C. § 1367.

When evaluating a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6), “courts accept all factual allegations as true, construe the complaint in the light most favorable to the plaintiff, and determine whether, under any reasonable reading of the complaint, the plaintiff may be entitled to relief.” *Fowler v. UPMC Shadyside*, 578 F.3d 203, 210 (3d Cir. 2009) (quoting *Phillips v. Cty. of Allegheny*, 515 F.3d 224, 233 (3d Cir. 2008)). A complaint survives a motion to dismiss if it contains sufficient factual matter, accepted as true, to “state a claim to relief that is plausible on its face.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). It is not for courts to decide at this point whether the non-moving party will succeed on the merits, but “whether they should be afforded an opportunity to offer evidence in support of their claims.” *In re Rockefeller Ctr. Props., Inc. Sec. Litig.*, 311 F.3d 198, 215 (3d Cir. 2002). While “detailed factual allegations” are not necessary, a “plaintiff’s obligation to provide the grounds of

his entitle[ment] to relief requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.” *Twombly*, 550 U.S. at 555 (internal quotations omitted); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 678–79 (2009).

III. DISCUSSION

Plaintiff does not specify the provision under which it is invoking this Court’s subject matter jurisdiction. It neither references the Constitution, laws, or treaties of the United States, nor pleads the citizenship of Defendants Martino, Shore, or Gonzales. As such, Plaintiff fails to meet his burden to show that jurisdiction lies in this Court. Further, although Plaintiff makes factual allegations regarding the conduct of SU and Defendant Martino, it is not clear what types of claims he is bringing. He writes only that he is seeking compensation for mental anguish and emotional distress. Even with a liberal construal of the Complaint, the Court cannot conclude that it meets the standard of Rule 12(b)(6). The Court, however, will allow Plaintiff an opportunity to amend because there is a possibility he could demonstrate subject matter jurisdiction and a plausible claim for relief. The Complaint is dismissed without prejudice.

IV. CONCLUSION

For the foregoing reasons, Defendants’ Motion to Dismiss is **GRANTED**.

Dated: 1/6/2017

s/ Robert B. Kugler

ROBERT B. KUGLER

United State District Judge