

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

JONATHAN LEE RICHES,

Civil No. 09-6118-CL

Plaintiff,

v.

ORDER TO DISMISS

LEXIS-NEXIS GROUP, et al.,

Defendants,

HOGAN, District Judge.

Plaintiff filed a complaint but did not pay the filing fee or request in forma pauperis status. Nevertheless, plaintiff is hereby granted leave to proceed in forma pauperis. However, for the reasons set forth below, plaintiff's complaint is dismissed, without service of process, on the basis that it is frivolous.

See 28 U.S.C. § 1915(d).

#### BACKGROUND

Plaintiff, an inmate at the Federal Medical Center, Lexington, Kentucky, filed a complaint alleging all sorts of unintelligible matters having to do with defendants appropriating his name and/or identity for use in their legal publications.

#### STANDARDS

A complaint filed *in forma pauperis* may be dismissed before service of process if it is deemed frivolous under 28 U.S.C. § 1915(d). Neitzke v. Williams, 490 U.S. 319, 324 (1989); Jackson v. State of Ariz., 885 F.2d 639, 640 (9th Cir. 1989). A complaint is frivolous "where it lacks an arguable basis in law or in fact." Nietzke, 490 U.S. at 325; Lopez v. Dept. of Health Services, 939 F.2d 881, 882 (9th Cir. 1991); Jackson, 885 F.2d at 640. The term "'frivolous' . . . embraces not only the inarguable legal conclusion, but also the fanciful factual allegation." Neitzke, 490 U.S. at 325 (footnote omitted); McKeever v. Block, 932 F.2d 795, 798 (9th Cir. 1991); Jackson, 885 F.2d at 640.

Accordingly, in reviewing a complaint for frivolity, a trial court may "pierce the veil of the complaint's factual allegations and dismiss those claims whose factual contentions are clearly

baseless." Neitzke, 490 U.S. at 327. In so doing, the assessment of the factual allegations must be weighted in favor of the plaintiff. Denton v. Hernandez, 112 S.Ct. 1728, 1733 (1992).

"Baseless" claims subject to sua sponte dismissal include those "describing fantastic or delusional scenarios." Neitzke, 490 U.S. at 328; Denton, 112 S.Ct. at 1733; McKeever, 932 F.2d at 798. "[A] finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible." Denton, 112 S.Ct. at 1733.

#### **DISCUSSION**

This court finds that the factual allegations in the instant case are irrational and wholly incredible. Regardless of how liberally the complaint is construed, the allegations fail to state a claim.

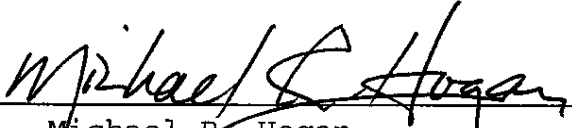
#### **CONCLUSION**

Based on the foregoing, IT IS ORDERED that plaintiff's complaint is DISMISSED. Because it is apparent that the deficiencies of the complaint cannot be cured by amendment, the

dismissal is with prejudice.<sup>1</sup>

IT IS SO ORDERED.

DATED this 5<sup>th</sup> day of May, 2009.

  
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Michael R. Hogan  
United States District Judge

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<sup>1</sup> Dismissal with prejudice refers to plaintiff's ability to file another *in forma pauperis* action raising the same claim. See Denton v. Hernandez, 112 S.Ct. 1728, 1734 (1992).