

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

AARON YOSHIHITO OKUDA and
M.M.O., a minor,

Plaintiffs,

v.

LEGAL AID OF OREGON and
CATHLEEN CALLAHAN,

Defendants.

No. 3:13-cv-01586-HZ

OPINION & ORDER

Aaron Yoshihito Okuda, Pro Se
512 SW Maplecrest Dr.
Portland, OR 97219

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1 - OPINION & ORDER

HERNANDEZ, District Judge:

Plaintiff Aaron Okuda moves to proceed *in forma pauperis* and for appointment of counsel. Because this court lacks subject matter jurisdiction, I dismiss the complaint for failure to state a claim.

BACKGROUND

Plaintiff Okuda¹ filed a complaint against Defendants Legal Aid of Oregon and Cathleen Callahan, the attorney representing Okuda's ex-wife. Compl. 4. Plaintiff's complaint is an 11-page narrative with 118 pages of exhibits regarding a custody dispute over M.M.O., his minor daughter. Plaintiff alleges that his ex-wife and her attorney interfere with his parenting time with M.M.O. by harassing him and making false statements about him. Compl. 3. Plaintiff also alleges breach of a "parenting agreement." *Id.* Plaintiff seeks injunctive relief to enjoin the alleged interference and damages of \$3 million.

DISCUSSION

Federal Civil Procedure Rule 12(h)(3) provides that "[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action." Fed. R. Civ. P. 12(h)(3); Scholastic Entm't, Inc. v. Fox Entm't Group, Inc., 336 F.3d 982, 985 (9th Cir. 2003) (citing Cal. Diversified Promotions, Inc. v. Musick, 505 F.2d 278, 280 (9th Cir. 1974) ("It has long been held that a judge can dismiss sua sponte for lack of jurisdiction")).

Plaintiff's allegations involve a custody dispute that Plaintiff has with his ex-wife over their minor daughter. This court has no jurisdiction to resolve such disputes. Furthermore, there is a pending state court case in Columbia County regarding the custody dispute. Plaintiff has

¹ Plaintiff M.M.O. is Okuda's minor daughter. Although M.M.O. is named as a plaintiff, the complaint and pending motions have been filed only by Okuda.

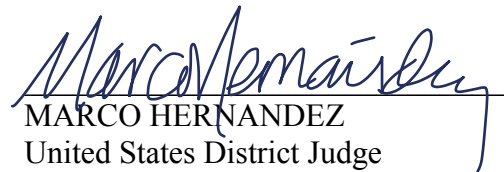
failed to state a claim upon which relief may be granted and thus, *sua sponte* dismissal is appropriate.

CONCLUSION

Based on the reasons above, Plaintiff's complaint is dismissed for failure to state a claim. Because it is clear that Plaintiff cannot cure the deficiencies in the complaint by amendment, the dismissal is with prejudice.

IT IS SO ORDERED.

Dated this 12 day of September, 2013.


MARCO HERNANDEZ
United States District Judge