

THE HONORABLE JOHN C. COUGHENOUR

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KHANH LE, *Guardian for Jacquelyn Le,*

CASE NO. C14-0060-JCC

Plaintiff,

ORDER

v.

FIREMAN'S FUND INSURANCE CO.,
et al.,

Defendants.

This matter comes before the Court on Plaintiff Khanh Le's complaint (Dkt. No. 4), his motion for a protective order (Dkt. No. 5), and his motion for court service (Dkt. No. 6). Having thoroughly considered Plaintiff's complaint and motions, the Court DISMISSES Plaintiff's complaint without prejudice and DENIES the pending motions.

I. BACKGROUND

Mr. Khanh Le, who proceeds *pro se* on behalf of Ms. Jacquelyn Le, filed the proposed complaint and motion to proceed *in forma pauperis* on January 13, 2014. (Dkt. No. 1.) On January 22, 2014, Magistrate Judge Donohue granted Plaintiff's IFP motion and forwarded the complaint to the undersigned. The complaint alleges that Fireman's Fund Insurance Company ("Fireman's"), Attorney Randy Hess, and Attorney Barbara Christensen "presented me [Plaintiff Jacquelyn Le] with a false settlement agreement and false trust in connection with the Superior Court of California County of Orange Case Number 375600[.]" (Dkt. No. 4 at 2.) The complaint

1 further alleges that “Fireman’s had my husband [Mr. Khanh Le] illegally apprehended for a
2 fraudulent no contact order[.]” (*Id.* at 2–3.) It is clear from the complaint that Mr. Le drafted the
3 statement of claims, but brings the claims solely on behalf of his wife, Ms. Jacquelyn Le.

4 Mr. Le requests \$6.5 million in damages from Fireman’s and \$1 million from attorneys
5 Randy Hess and Barbara Christensen each in damages. (*Id.* at 3.) To support the one-paragraph
6 statement of claims, Mr. Le attached approximately 600 pages of documents which include trust
7 agreements and account statements for Ms. Le, but he nowhere explains how such documents
8 were fraudulent or how the Defendants’ actions defrauded Ms. Le, whom Mr. Le purports to
9 represent. (*See* Dkt. No. 4 Exs. 1–7.) The Court notes that Mr. Le has filed multiple complaints
10 against Fireman’s in the last year, each of which has been dismissed as frivolous. *See Khanh Le*
11 *v. Fireman’s Fund Insurance Co.*, Case No. C14-0028-JLR, Dkt. No. 9 (W.D. Wash. 2014)
12 (order dismissing Mr. Le’s claims as frivolous due to lack of subject matter jurisdiction); *Khanh*
13 *Le v. Fireman’s Fund Insurance Co.*, Case No. C13-0376-RAJ, Dkt. No. 13 (W.D. Wash. 2013)
14 (order dismissing Mr. Le’s complaint as frivolous because it failed to allege any state actor under
15 section 1983). Mr. Le also brought a lawsuit against the Sacramento County Sheriff and a
16 Sacramento Public Defender for an allegedly unlawful arrest that occurred when he visited
17 Sacramento and violated a restraining order preventing him from contacting Fireman’s. *Khanh*
18 *Le v. Barbale*, Case No. C13-0694-MJP (W.D. Wash. 2013). That case was dismissed with
19 prejudice for failure to state a claim. (*Id.*)

20 Mr. Le now moves for a protective order—that is, to be protected from Defendants in the
21 pendency of the lawsuit because he lives his life in “constant, tremendous fear” and has
22 “nightmares every night about being apprehended for the fraudulent bench warrant created by
23 Fireman’s Insurance Co. in cooperation with the Sacramento County Sheriff and the King
24 County Sheriff [.]” (Dkt. No. 5) Mr. Le also requests that the Court serve his complaint upon
25 Defendants. (Dkt. No. 6.)

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1 **II. DISCUSSION**

2 Because Mr. Le proceeds *in forma pauperis*, the Court has authority to review his
3 complaint and must dismiss it if, at any time, it is determined that the complaint is frivolous or
4 fails to state a claim upon which relief may be granted. 28 U.S.C. § 1915(e)(2); *see also* 28
5 U.S.C. § 1915A(b)(1). Section 1915’s screening authority applies to all IFP proceedings, not just
6 those filed by prisoners. *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000). For the reasons
7 explained herein, the Court finds that Mr. Le’s complaint is frivolous and dismisses the
8 complaint without prejudice.

9 **1. Mr. Le May Not Represent Ms. Le’s Interests as a *Pro Se* Litigant**

10 A party proceeding *pro se* has a right to represent his or own interests in federal court.
11 *See* 28 U.S.C. § 1654. However, under Ninth Circuit precedent, individuals proceeding *pro se*
12 have no authority to represent anyone other than themselves. *Cato v. United States*, 70 F.3d
13 1103, 1105 n.1 (9th Cir. 1995) (plaintiff proceeding *pro se* may only represent his or her own
14 interests); *C.E. Pope Equity Trust v. United States*, 818 F.2d 696, 697 (9th Cir. 1987)
15 (“[A]lthough a non-attorney may appear *in propria persona* in his own behalf, that privilege is
16 personal to him. He has no authority to appear as an attorney for others than himself.”) (citation
17 omitted). Accordingly, the Ninth Circuit has repeatedly concluded that *pro se* individuals may
18 not bring claims in a representative capacity. *See Simon v. Hartford Life, Inc.*, 546 F.3d 661, 664
19 (9th Cir. 2008) (“[C]ourts have routinely adhered to the general rule prohibiting *pro se* plaintiffs
20 from pursuing claims on behalf of others in a representative capacity.”); *Johns v. County of San*
21 *Diego*, 114 F.3d 874, 876 (9th Cir. 1997) (a guardian or parent may not bring suit in federal court
22 on behalf of a minor or incompetent plaintiff without first retaining an attorney).

23 In his complaint, Mr. Le lists himself as Plaintiff only in a representative capacity for his
24 wife, Ms. Jacquelyn Le. (Dkt. No. 4 (listing Khanh Le as Guardian for Jacquelyn Le).) The
25 complaint then explains that the claims alleged are fraud claims on behalf of Ms. Le—that is,
26 that Ms. Le was presented with a fraudulent settlement agreement and trust documents “in

1 connection with” a California case. (*Id.*) The statement of claims and 600 pages of exhibits deal
2 with an alleged fraud committed upon Ms. Le. However, Ms. Le has neither appeared in this
3 matter nor signed the complaint. In light of the Ninth Circuit’s guidance, the Court will not allow
4 Mr. Le to pursue Ms. Le’s claims *pro se*.¹ The complaint is accordingly dismissed without
5 prejudice. If Mr. Le wishes to serve as guardian ad litem for Ms. Le and prosecute her claims as
6 a representative plaintiff, he must obtain counsel and re-file his complaint.

7 **2. Mr. Le’s Motion for a Protective Order**

8 It is also clear to the Court that Mr. Le attempts to use this matter, which is purportedly
9 brought on behalf of Ms. Le, to relitigate issues already rejected in other lawsuits in this district.
10 Indeed, Mr. Le’s “motion for a protective order” demonstrates that he is focused not upon the
11 alleged fraud committed upon Ms. Le, but with his allegedly false arrest by the Sacramento
12 Sheriff and an allegedly fraudulent bench warrant “created by Fireman’s Fund Insurance Co. in
13 cooperation with the Sacramento County Sheriff and the King County Sheriff[.]” (Dkt. No. 5.)
14 Similar claims have been the subject of Mr. Le’s complaints and motions for protective orders in
15 other cases in this district. *Khanh Le v. Fireman’s Fund Ins. Co.*, Case No. C14-0028-JLR, Dkt.
16 No. 5 (W.D. Wash. Feb. 4, 2014) (motion for protective order against Fireman’s “to stop them
17 from committing any further actions against me or my wife Jacquelyn Le”); *Khanh Le v.*
18 *Fireman’s Fund Insurance Co.*, Case No. C13-0376-RAJ, Dkt. No. 9 (W.D. Wash. 2013)
19 (motion for temporary restraining order “to stop the harassing, threatening and intimidating
20 actions being committed against me by Fireman’s Fund Insurance and their attorneys[,]
21 employees[,] or any other associates.”); *Khanh Le v. Barbale*, Case No. C13-0694-MJP, Dkt. No.
22 36 (W.D. Wash. 2013) (motion for protective order to prevent all illegal actions by Sacramento
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25 ¹ To the extent that Mr. Le brings such fraud claims in his own name, he alleges no facts whatsoever to
26 suggest that he was defrauded. Further, identical claims by Mr. Le have already been rejected by Judge Jones. *See*
Khanh Le v. Fireman’s Fund Insurance Co., Case No. C13-0376-RAJ, Dkt. No. 13 (W.D. Wash. April 16, 2013).
To the extent the complaint is construed as being brought in Mr. Le’s own interests, it utterly fails to state any claim
for fraud.

1 County Sheriff). A complaint that merely repeats pending or previously litigated claims is
2 subject to dismissal under section 1915. *See Cato*, 70 F.3d at 1105 n.2. Thus, to the extent that
3 Mr. Le brings these claims on his own behalf and moves for a protective order, the Court finds
4 that the contentions are merely repeat allegations as those in the other cases that have already
5 been dismissed. The Court need not continuously revisit the same issues and denies the motion
6 for a protective order as moot in light of the dismissal of Plaintiff's complaint.

7 Finally, even if the Court were to address this motion as a motion for a temporary
8 restraining order, the motion would be denied. A plaintiff seeking a TRO in federal court must
9 meet the standards for issuance of a preliminary injunction and comply with Federal Rule of
10 Civil Procedure 65. Accordingly, the plaintiff must establish (1) that he is likely to succeed on
11 the merits; (2) that he is likely to suffer irreparable harm in the absence of preliminary relief; (3)
12 that the balance of the equities tips in his favor, and (4) that an injunction is in the public interest.
13 *Winter v. Natural Res. Def. Council*, 555 U.S. 7 (2008). Here, Mr. Le has not demonstrated that
14 he is entitled to injunctive relief. There is no basis to conclude that he is likely to succeed on the
15 merits in light of the Court's analysis herein—that is, that Mr. Le cannot proceed on the claims
16 he raises and has not actually raised any of his own claims for relief. Additionally, his protective
17 order motion is merely a general request for safety; he fails to identify any harm suffered, actual
18 threats made by the defendants, and the motion is primarily directed to entities that are not
19 named as defendants in this lawsuit: the Sacramento County and King County Sheriffs Offices.
20 (Dkt. No. 5.) Finally, the Court notes that Mr. Le has in no way complied with Federal Rule of
21 Civil Procedure 65 or Local Rule 65, which require a plaintiff to serve the opposing party with
22 the motion or certify in writing that efforts were made to do so. Fed. R. Civ. P. 65(b); Local
23 Rules W.D. Wash. CR 65(b). Accordingly, the Court would find no basis to grant the requested
24 relief.

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1 **III. CONCLUSION**

2 Because Mr. Khanh Le may not pursue the claims of Ms. Jacquelyn Le as a *pro se*
3 litigant and the complaint is otherwise devoid of any factual basis for the generalized “fraud”
4 allegation presented, the complaint is frivolous and fails to state a claim for which relief may be
5 granted. The Court hereby DISMISSES the complaint (Dkt. No. 4) without prejudice and
6 DENIES the pending motions (Dkt. Nos. 5, 6). The Clerk is respectfully directed to close the
7 case.

8 DATED this 12th day of March 2014.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE