

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-022259

05/05/2025

HONORABLE MICHAEL D. GORDON

CLERK OF THE COURT
J. Zinkowich
Deputy

RONALD C RUSS

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6797 W EVERGREEN TER
PEORIA AZ 85383

v.

ROB LEWIS, et al.

MATTHEW S HOLT

BOB BENGFORD
NO ADDRESS ON RECORD
JODI LEE MULLIS
JUDGE GORDON
DOCKET CV TX

MINUTE ENTRY

I. Introduction

Pending is: (1) Defendants Carpenter, Hazlewood, Delgado & Bolen, LLP (CHDB); Joshua Bolen; Charlene Cruz; Nikita Patel; Lydia Pierce-Linsemeier; and Michelle Wellnitz (collectively, "CHDB Defendants") Joinder in Defendants' Motion to Dismiss and Motion to Strike Exhibit A to the Complaint, filed April 4, 2025 (CHDB's Motion to Dismiss); (2) Plaintiff's Emergency Motion for Add'l Leave Fri April 25/Mond. 4/28: to file Amended Comp. for Good Cause (filed 4/27/25) (Emergency Motion); (3) CHDB's Motion for Judgment on the Pleadings (filed 5/1/25) (Motion for Summary Disposition); and Plaintiff's Emergency Motion for Add'l Leave to File Amended Complaint (for Good Cause) (And Reply to Motion to Strike also.) (filed 5/2/25) (Emergency Motion and Amended Complaint)

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II. Rulings

A. CHDB's Motion to Dismiss

The Court previously ordered that Plaintiff file a Response to CHDB's Motion to Dismiss by April 23, 2025. He has not done so. The matter is ready for ruling.

In ruling on a Rule 12(b)(6) motion to dismiss, the Court will "assume the truth of the well-pled factual allegations and indulge all reasonable inferences therefrom." *Cullen v. Auto-Owners Ins. Co.*, 218 Ariz. 417, 419 (2008). The Court will grant the motion only if the plaintiff is not entitled to relief "under any facts susceptible of proof in the statement of the claim." *ELM Ret. Ctr., LP v. Callaway*, 226 Ariz. 287, 289 (App. 2010), quoting *Mohave Disposal, Inc. v. City of Kingman*, 186 Ariz. 343, 346 (1996).

The Court, however, will not "speculate about hypothetical facts that might entitle the plaintiff to relief." *Cullen*, 218 Ariz. at 420. Nor will the Court "accept as true allegations consisting of conclusions of law, inferences or deductions that are not necessarily implied by well-pleaded facts, unreasonable inferences or unsupported conclusions from such facts, or legal conclusions alleged as facts." *Jeter v. Mayo Clinic Ariz.*, 211 Ariz. 386, 389 (App. 2005).

Before the trial court grants a Rule 12(b)(6) motion to dismiss, the non-moving party should be given an opportunity to amend the complaint if such an amendment cures its defects. *Wigglesworth v. Mauldin*, 195 Ariz. 432, 439 (App. 1999); *see also Dube v. Likins*, 216 Ariz. 406, 415 (App. 2007). But a request for leave to amend should be made in a proper motion. *Blumenthal v. Teets*, 155 Ariz. 123, 131 (App. 1987).

Finally, a *pro per* litigant "is held to the same familiarity with court procedures and the same notice of statutes, rules, and legal principles as is expected of a lawyer." *Higgins v. Higgins*, 194 Ariz. 266, 270 (App. 1999). "[A] party who conducts a case without an attorney is entitled to no more consideration from the court than a party represented by counsel and is held to the same standards expected of a lawyer." *Kelly v. NationsBanc Mortg. Corp.*, 199 Ariz. 284, 287 (App. 2000).

CHDB argues that dismissal is required because Plaintiff has failed to meet minimum pleading requirements. On March 14, 2025, the Court granted co-defendants' Motion to Dismiss for this reason.

The Court has reviewed the Complaint, yet again, this time with respect to the CHDB Defendants and the Court reaches the same conclusion. The Complaint must be dismissed.

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The Court, again, attempts to construe the Complaint to do substantial justice. *Rowland v. Kellogg and Root, Inc.*, 210 Ariz. 530 (App. 2005); Ariz. R. Civ. Proc. 8(f) (2025). The Court finds that Plaintiff's Complaint fails to offer the CHDB Defendants proper notice of the causes of action asserted against them. Like the co-defendants, the Complaint amounts to "an unadorned, the defendants-unlawfully-harmed-me accusation." It details facts and circumstances about which he disagrees, but his narrative is hopelessly confusing and offers no meaningful way to decipher specific causes of action in a manner which could engender a meaningful Answer. As noted in the Court's previous ruling, Plaintiff was required to plead facts sufficient to demonstrate each of the elements for each cause of action he alleges--- so as to give each defendant notice of the claims asserted against him or her. Because Plaintiff categorically failed to do so in any comprehensible way, the Complaint will be dismissed without prejudice.

The CHDB defendants have asked the Court to dismiss the matter with prejudice finding that amending would be futile. The Court will decline to do so given that the Court has no substantial understanding of the allegations. For the same reasons, the Court declines to address futility on other grounds.

Given Plaintiff's failure to meet the deadlines to file an amended Complaint with respect to co-defendants, the Court will not offer him the same opportunity. Instead, Plaintiff may file a motion to amend no later than May 23, 2025, to pursue the matter further. But, if Plaintiff chooses to file a motion to amend, that motion must comply with the applicable Arizona Rules of Civil Procedure including, but not limited to Rules 8 and 15.

B. Plaintiff's Emergency Motion.

Plaintiff continues to file emergency motions without good cause. The Court finds that extant Emergency Motion does not demonstrate good cause, and it will be denied.

C. Motion for Summary Disposition.

CHDB seeks summary disposition on its Motion to Dismiss. The Court, having ruled on CHDB's Motion to Dismiss, finds that this motion is now moot.

D. Emergency Motion and Amended Complaint.

Plaintiff's Emergency Motion seek an extension to file an Amended Complaint due April 23, 2025. He attaches the Amended Complaint.

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Plaintiff has not provided good cause to extend the deadline and the Amended Complaint is ineffective. The Court, however, will extend to Plaintiff leave to file a motion to amend no later than May 23, 2025, to pursue the matter further. But, if Plaintiff chooses to file a motion to amend, that motion must comply with the applicable Arizona Rules of Civil Procedure including, but not limited to Rules 8 and 15.

III. Conclusion

For the foregoing reasons,

IT IS ORDERED granting CHDB's Motion to Dismiss.

IT IS FURTHER ORDERED dismissing the Complaint against the CHDB Defendants.

IT IS FURTHER ORDERED denying Emergency Motion and Amended Complaint.

IT IS FURTHER ORDERED granting Plaintiff leave to file a Motion to Amend no later than **May 23, 2025**.

IT IS FURTHER ORDERED deeming CHDB's Motion for Summary Disposition to be moot.

IT IS FURTHER ORDERED denying Plaintiff's Emergency Motion.

IT IS FURTHER ORDERED that if Plaintiff files a Motion to Amend, he shall comply with the applicable Arizona Rules of Civil Procedure including, but not limited to Rules 8 and 15.