

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
SOUTHWESTERN DIVISION**

THE CHURCH OF JESUS CHRIST	)	
CHRISTIAN, et al.	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 3:13-cv-05020-SRB
	)	
NEWTON COUNTY, et al.	)	
	)	
Defendants.	)	

**ORDER**

Before the Court is Defendant Neff’s Motion to Dismiss (Doc. #25). For the reasons stated herein, the motion is GRANTED.

**I. Pleading Standard**

Defendant Neff brings his motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). In order to survive the motion to dismiss, Plaintiffs’ Pro Se Amended Complaint must meet the standard set out in Rule 8(a), which requires that a plaintiff plead sufficient facts to state a claim upon which relief may be granted. “To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citations omitted). A pleading that offers only “labels and conclusions” or a “formulaic recitation of the elements of a cause of action” is not sufficient. *Id.*

In determining whether the complaint alleges sufficient facts to state a plausible claim to relief, all factual allegations made by the plaintiff are accepted as true. *Great Plains Trust Co. v. Union Pac. R.R. Co.*, 492 F.3d 986, 995 (8th Cir. 2007) (noting that legal allegations are not accepted as true). If the facts in the complaint are sufficient for the Court to draw a reasonable

inference that Defendant is liable for the alleged misconduct, the claim has facial plausibility and will not be dismissed. *Iqbal*, 556 U.S. at 678. While pro se complaints must be construed liberally, “they must still allege sufficient facts to support the claims advanced.” *Stone v. Harry*, 364 F.3d 912, 914 (8th Cir. 2004).

## **II. Background and Discussion**

Plaintiffs The Church of Jesus Christ Christian/Aryan Nations of Missouri and Pastor Martin Luther Dzerhinsky Lindstedt, filed their original complaint on February 22, 2013. (Doc. #1). Plaintiffs filed a Pro Se Amended Complaint on September 26, 2014, naming Defendant Neff as a party for the first time.<sup>1</sup> Plaintiffs’ claim against Neff arises from a guardianship proceeding instituted by Martin Lindstedt and involving his now-deceased mother, Martina Lindstedt, in which Neff was named as Martina’s guardian ad litem. (Doc. #15, p. 5). Plaintiffs’ Pro Se Amended Complaint is rambling, confusing, and fails to identify the specific claims alleged against any of the defendants. Plaintiffs’ Pro Se Amended Complaint further fails to identify any involvement in these matters or injury suffered by The Church of Jesus Christ Christian/Aryan Nations of Missouri.

Even so, Plaintiffs’ allegations of wrongdoing by Neff stem solely from Neff’s role as guardian ad litem in the guardianship proceedings. Plaintiffs allege, “Neff drafted up an idiotic motion to dismiss the guardianship proceedings[.]” (Doc. #15, p. 6). Plaintiffs further allege that Neff’s writing of the motion to dismiss caused Plaintiffs harm and allowed two other defendants to “embezzle Martina Lindstedt’s estate.” *Id.* In outlining the relief sought from Defendant Neff, Plaintiffs state, “[A] jury trial should determine whether Neff is incompetent to

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<sup>1</sup> The Court notes that Plaintiffs filed their amended complaint without leave of Court in violation of Fed. R. Civ. P. 15(a)(2). As leave should be freely given “when justice so requires,” the Court will treat the Pro Se Amended Complaint as the operative complaint, but Plaintiffs are reminded of their obligation to seek leave for any future amendments.

be an attorney or not and whether his bogus Motion to Dismiss encouraged Mike Lindstedt to think that he could do whatever he pleased in continuing to embezzle Martina Lindstedt's estate[.]”<sup>2</sup> (Doc. #15, p. 12). Plaintiffs seek damages from Defendant Neff. (Doc. #15, p. 14).

While Plaintiffs do not specifically state what claim they are bringing against Defendant Neff, they refer to the action as “federal civil rights litigation.” (Doc. #15, p. 6). To the extent Plaintiffs attempt to state a claim for damages against Defendant Neff based on 42 U.S.C. § 1983, their claim is barred by absolute immunity. *See McCuen v. Polk Cty, Iowa*, 893 F.2d 172, 174 (8th Cir. 1990). In *McCuen*, the Eighth Circuit found a guardian ad litem absolutely immune from liability based on her preparation of and signing of a motion to stay that the plaintiff argued caused harm. *Id.* Similarly, Defendant Neff is absolutely immune from liability stemming from his preparation of and signing of the motion to dismiss.

This Court can discern no other cause of action that even might form the basis of a claim against Defendant Neff based on the facts alleged. Therefore, to the extent Plaintiffs attempt to bring a claim other than under 42 U.S.C. § 1983, Plaintiffs' Pro Se Amended Complaint fails to state a claim against Defendant Neff upon which relief can be granted and must be dismissed pursuant to Fed. R. Civ. P. 12(b)(6).

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<sup>2</sup> Liberally construing the Pro Se Amended Complaint, it could be argued that Plaintiffs seek equitable relief against Defendant Neff in the form of him being stripped of his law license for being “incompetent.” It is not within this Court's jurisdiction or power, however, to declare Defendant Neff “incompetent” or to strip him of his law license. Accordingly, to the extent Plaintiffs attempt to seek declaratory or injunctive relief against Defendant Neff, the Pro Se Amended Complaint fails to state such a claim.

Accordingly, it is hereby ORDERED that Defendant Neff's Motion to Dismiss (Doc. #25) is GRANTED.

/s/ Stephen R. Bough  
STEPHEN R. BOUGH  
United States District Judge

Dated: February 26, 2015