

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

“ANTONIUS-DAMASCUS:RAELUND
CANDACE:RAELUND, CANDI-
LEE:WEEKS (LILES) (RAELUND),”

Plaintiff,

vs.

“ERICK M ENZ, KEELEE M. ENZ,
LYNN C. REHM, KIM T.
CHRISTOPHERSON,”

Defendants.

CV 17-56-M-DLC-JCL

ORDER

An individual identified as “Antonius-Damascus:Raelund” (hereinafter “Raelund”), and appearing pro se, has filed a document titled “Declaration & Notice: Counterclaim.” The document identifies four individuals as counter defendants, including Erick Enz, Keelee Enz, and Lynn Rehm. As best as can be ascertained from the referenced document and related attachments, Raelund is named as a defendant in a civil action filed by Erick Enz, Keelee Enz, and Lynn Rehm in the Montana Eleventh Judicial District Court, Flathead County, Montana (*see* doc. 1-6) seeking possession of certain real property that is the subject of a “Lease Option Agreement” apparently entered into among Raelund and these three

individuals.

Because Raelund is appearing pro se the Court is obligated to construe his “Declaration & Notice: Counterclaim” liberally. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). In doing so, the Court views the document as a complaint within the meaning of Fed. R. Civ. P. 3 and 7 designed to commence a civil action.

Even liberally construed, however, the complaint fails to satisfy the requirements of Fed. R. Civ. P. 8(a)(1) which mandates a complaint contain a “short and plain statement of the grounds for the court’s jurisdiction[.]” The complaint fails to allege, in any manner, the statutory basis of this Court’s jurisdiction. The Court is obligated to ensure, in the first instance, that it does in fact possess jurisdiction of the subject matter of the controversy delineated in the complaint. *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 231 (1990). A plaintiff bears the burden of establishing that subject matter jurisdiction over a proposed civil action is vested in the Court. *Kokkonen v. Guardian Life Ins. of America*, 511 U.S. 375, 377 (1994). And failure to do so subjects the complaint to dismissal. Fed. R. Civ. P. 12(h)(3); *Fiedler v. Clark*, 714 F.2d 77, 78-9 (9th Cir. 1983).

Raelund has failed to sustain his initial burden in establishing this Court possesses subject matter jurisdiction over the controversy his complaint presents for adjudication. Before dismissing this action the Court will afford Raelund an

opportunity to file an amended complaint.

Raelund is advised that Rule 8(a) requires not only a short and plain statement of the jurisdictional grounds for this action, but also “a short and plain statement of the claim showing that the pleader is entitled to relief,” and “a demand for the relief sought.” Fed. R. Civ. P. 8(a). For purposes of stating a claim for relief, a pleading need only “give the defendant fair notice of what the ... claim is and the grounds upon which it rests.” *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (internal quotations and citations omitted).

With regard to the jurisdictional allegations, Raelund shall expressly plead facts establishing that the claims arise under the United States Constitution, a federal statute, or some other federally protected right. *See* 28 U.S.C. § 1331. To the extent possible, Raelund shall identify the specific federal right allegedly violated by Defendants’ conduct.

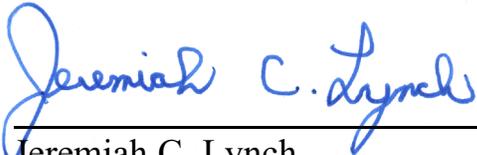
Alternatively, if Raelund intends to invoke the Court’s diversity jurisdiction under 28 U.S.C. § 1332, Raelund shall affirmatively allege the citizenship of each party to this action.

Therefore, IT IS HEREBY ORDERED that on or before **May 24, 2017**, Raelund shall file an amended complaint in accordance with the guidance provided herein.

At all times during the pendency of this action, Raelund shall immediately advise the Court of any change of address and its effective date. Such notice shall be captioned “NOTICE OF CHANGE OF ADDRESS.” Failure to file a NOTICE OF CHANGE OF ADDRESS may result in the dismissal of the action for failure to prosecute pursuant to Fed. R. Civ. P. 41(b).

Raelund is advised that a failure to prosecute this action, to comply with the Court’s orders, or to comply with the Federal Rules of Civil Procedure may also result in a recommendation that this case be dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b). The Court may dismiss this case under Rule 41(b) *sua sponte* under certain circumstances. *See, e.g., Link v. Wabash Railroad Co.*, 370 U.S. 626, 633 (1962); *Hells Canyon Preservation Council v. United States Forest Serv.*, 403 F.3d 683, 689 (9th Cir. 2005).

DATED this 3rd day of May, 2017.



Jeremiah C. Lynch
United States Magistrate Judge