

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

NEIL J. GILLESPIE,

Plaintiff,

-vs-

Case No. 5:10-cv-503-Oc-10TBS

THIRTEENTH JUDICIAL CIRCUIT,
FLORIDA, et al.,

Defendants.

ORDER OF DISMISSAL

The Plaintiff, proceeding *pro se*, has filed a Complaint against eleven (11) Defendants which, by its title, purports to state a claim under the Americans With Disabilities Act, 42 U.S.C. §§ 12131, *et seq.*, as well as various violations of his constitutional rights.¹ (Doc. 1). The Complaint is due to be dismissed for several reasons.

First, the Plaintiff has never effected service of summons on any of the Defendants, or complied with any of the requirements of Fed. R. Civ. P. 4. Second, the Complaint consists of 39 pages of rambling, largely incomprehensible allegations and fails to set forth “a short and plain statement of the claim showing that the pleader is entitled to relief,” as required by Fed. R. Civ. P. 8(a)(2). Third, the Complaint fails to allege the basis for the Court’s subject-matter jurisdiction as required by Fed. R. Civ. P. 8(a)(1) – the parties are clearly all citizens of Florida and therefore not diverse, and the Plaintiff has not alleged any

¹The Plaintiff voluntarily dismissed all claims against two (2) of the Defendants, Barker Rodems & Cook, P.A., and Ryan Christopher Rodems, on October 29, 2010 (Docs. 22, 25-26).

intelligible facts that would support a finding of the existence of federal question jurisdiction. See 28 U.S.C. §§ 1331-1332. And fourth, it appears that the Plaintiff has assigned all of his claims in this case to Defendants Ryan Christopher Rodems, Chris A. Barker, and William J. Cook, who have moved for voluntary dismissal with prejudice under Fed. R. Civ. P. 41(a)(2). (See Doc. 32).²

Accordingly, upon due consideration, it is hereby ORDERED that the Plaintiff's Complaint (Doc. 1) is DISMISSED. The Clerk is directed to enter judgment accordingly, terminate all pending motions, and close the file.

IT IS SO ORDERED.

DONE and ORDERED at Ocala, Florida this 27th day of February, 2012.



UNITED STATES DISTRICT JUDGE

Copies to: Counsel of Record
Neil J. Gillespie, *pro se*

²The Court is aware that the Plaintiff has challenged the validity of the settlement agreement and assignment of claims on the grounds that it was procured by fraud, executed under duress, and without informed consent (Docs. 33, 39, 61, 63). However, the core of the settlement agreement containing the assignment involved the resolution of various matters pending in state court, and the settlement agreement itself appears to have been executed as part of a state court proceeding. (Doc. 32, 40). As such, the state court is the appropriate judicial body with the jurisdiction to resolve any disputes over the validity and/or enforceability of the settlement agreement and assignment. This Court will not (absent subject-matter jurisdiction) entertain any disputes within the purview of the settlement agreement unless and until the state court enters a judgment declaring the settlement agreement and assignment invalid. Cf. Heck v. Humphrey, 512 U.S. 477, 114 S.Ct. 2364 (1994).