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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

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11 LARRY CALDWELL,

12 Plaintiff,

13 v.

14 ROSEVILLE JOINT UNIFIED SCHOOL
15 DISTRICT; JAMES JOINER; R. JAN
16 PINNEY; TONY MONETTI; STEVEN
LAWRENCE; DONALD GENASCI; and
RONALD SEVERSON,

17 Defendants.

NO. CIV. S-05-0061 FCD JFM

MEMORANDUM AND ORDER

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19 On January 11, 2005, plaintiff, Larry Caldwell ("plaintiff")
20 filed a complaint with this court against defendants Roseville
21 Joint Unified School District, James Joiner, R. Jan Pinney, Tony
22 Monetti, Steven Lawrence, and Ronald Severson (collectively
23 "defendants"). On January 18, 2005, plaintiff filed an Amended
24 Complaint, and on March 10, 2005, plaintiff filed the operative
25 Second Amended Complaint. Defendants now move to dismiss the
26 complaint, pursuant to Federal Rules of Civil Procedure 12(b)(1)
27 and 12(b)(6), or, alternatively, to dismiss for failure to comply
28 with Federal Rule of Civil Procedure 8(a).

1 Because the court concludes that the complaint is so
2 cluttered with minutiae as to defy clear understanding, the court
3 does not reach the merits of defendants' motion. The complaint
4 is 112 pages long. It reads more like a personal journal, rife
5 with extraneous details, repetitive accusations, and plaintiff's
6 impressions about events, than a proper complaint. Defendants
7 complain, justifiably, that they cannot discern from the
8 complaint as written, the precise nature of plaintiff's claims
9 and thus cannot prepare a responsive pleading. By way of
10 example, defendants point to the "endless repetitive allegations,
11 and the cross-mixing of the Cal Education Code § 60002, § 60010,
12 § 60045, § 60400, and § 35145.5, and the California Brown Act
13 (Cal Government Code § 54950, et seq.) relating to 'open public
14 meetings' into his allegations, while attempting to state claims
15 for relief under 42 U.S.C. § 1983 for violation of United States
16 Constitutional Rights." (Defs.' Mem. Supp. Dismiss at 9.)

17 The court agrees with defendants that the complaint, as
18 currently drafted, is so muddled with extraneous and repetitive
19 allegations that neither the defendant nor the court can
20 ascertain the precise nature and scope of plaintiff's claims.
21 The only question then, is the appropriate remedy. Defendants
22 request dismissal under Rule 8(a).

23 Federal Rule of Civil Procedure 8(a) provides in relevant
24 part that, "[a] pleading which sets forth a claim for relief . .
25 . shall contain . . . a short and plain statement of the claim
26 showing that the pleader is entitled to relief" Fed. R.
27 Civ. P. 8(a). The Seventh Circuit recently elaborated on the
28 meaning of Rule 8(a)'s short and plain statement requirement:

1 Rule 8(a) requires parties to make their pleadings
2 straightforward, so that judges and adverse parties
3 need not try to fish a gold coin from a bucket of mud.
4 Federal judges have better things to do, and the
5 substantial subsidy of litigation (court costs do not
6 begin to cover the expense of the judiciary) should be
7 targeted on those litigants who take the preliminary
8 steps to assemble a comprehensible claim.
9 U.S. ex rel. Garst v. Lockheed-Martin Corp., 328 F.3d 374, 378
10 (7th Cir. 2003). While courts have granted dismissal of overly
11 verbose and confusing complaints, the court concludes that
12 dismissal in such cases creates tension with Rule 12(b)(6) which
13 directs that a claim should not be dismissed unless it appears
14 beyond a doubt that the plaintiff can prove no set of facts in
15 support of the claim which would entitle him or her to relief.
16 Conley v. Gibson, 355 U.S. 41, 45 (1957); NL Indus., Inc. v.
17 Kaplan, 792 F.2d 896, 898 (9th Cir. 1986).

18 Fortunately, the Federal Rules of Civil Procedure provide
19 another mechanism to remedy the defects in plaintiff's complaint.

20 Federal Rule of Civil Procedure 12(e) provides:¹

21 Motion for More Definite Statement. If a pleading to
22 which a responsive pleading is permitted is so vague or
23 ambiguous that a party cannot reasonably be required to
24 frame a responsive pleading, the party may move for a
25 more definite statement before interposing a responsive
26 pleading. The motion shall point out the defects
27 complained of and the details desired. If the motion is
28 granted and the order of the court is not obeyed within
10 days after notice of the order or within such other
time as the court may fix, the court may strike the
pleading to which the motion was directed or make such
order as it deems just.

29 Fed. R. Civ. P. 12(e). Rule 12(e) is often employed where the
30 pleadings are insufficient; however it is also appropriate where

31 ¹ While defendants did not move for relief under
32 Rule 12(e) courts can order a more definite statement sua
33 sponte. See Moore's Federal Practice ¶ 12.36(1) (3d Ed.
34 2004) and cases cited therein.

1 "a complaint approaches the other extreme of being overly prolix
2 or complex." 2 James Wm. Moore et al., Moore's Federal Practice
3 ¶ 12.36(1) (3d Ed. 2004).² In such cases, the motion for more
4 definite statement can assist the court in 'the cumbersome task
5 of sifting through myriad claims, many of which may be foreclosed
6 by various defenses." Id. (quoting Anderson v. Board of
7 trustees, 77 F.3d 364, 367 (11th Cir. 1996.) While, Rule 12(e)
8 is disfavored, plaintiff's complaint is precisely the type of
9 pleading to which it is properly applied.

10 **CONCLUSION**

11 For the foregoing reasons the court makes the following
12 orders:

13 (1) Plaintiff shall file an amended complaint within thirty
14 (30) days of the date of this order, which complies with Rule
15 8(a). Plaintiff shall omit from the amended complaint irrelevant
16 details and unnecessary evidentiary allegations.

17 (2) Defendants pending motion to dismiss is VACATED as
18 MOOT. Defendants may renew the motion to dismiss after plaintiff
19 amends his pleading.

20 IT IS SO ORDERED.

21 DATED: June 30, 2005

22 /s/ Frank C. Damrell Jr.
23 FRANK C. DAMRELL JR.
24 United States District Judge

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26 _____
27 ² Defendants seek dismissal pursuant to Rule 8(a).
28 While courts have dismissed overly detailed complaints under
Rule 8(a), the court concludes that the appropriate course
is not dismissal but a more definite statement.