

U.S. BANKRUPTCY COURT
DISTRICT OF ARIZONA

In re:) Chapter 11
)
THE ROMAN CATHOLIC CHURCH OF)
DIOCESE OF TUCSON *aka* THE) No. 4-04-bk-04721-JMM
DIOCESE OF TUCSON, an Arizona)
corporation sole,) **MEMORANDUM DECISION (RE:**
) **MOTION TO DISMISS)**

Debtor.)

PHILIP GREGORY SPEERS,) (Opinion to Post)
)
Plaintiff,)
vs.)
)
THE ROMAN CATHOLIC CHURCH OF)
DIOCESE OF TUCSON,)
)

Defendant.)

Each pleading is required to be simple, concise, and direct. FED. R. OF BANKR. P. 7008(e)(1). Moreover, FED. R. OF CIV. P. 8(a) mandates that a claim for relief “shall contain . . . a short and plain statement of the claim showing that the pleader is entitled to relief.”

1 The Complaint herein violates these rules. It is:

- 2 • 74 pages long;
- 3 • Contains 20 counts, and
- 4 • Consists of 468 separately numbered paragraphs.

5 Moreover, the Complaint is disorganized and rambling.

6 A federal court has the power to dismiss a complaint when a plaintiff fails to comply with
7 the rules of civil procedure, including FED. R. OF CIV. P. 8(a)(2)'s "short and plain statement"
8 requirement. *Kuehl v. F.D.I.C.*, 8 F.3d 905 (1st Cir. 1993).

9 FED. R. OF CIV. P. 8(a) requires parties to make their pleadings straightforward, so that
10 judges and adverse parties need not try to fish a gold coin from a bucket of mud. *U.S. ex rel. Garst v.*
11 *Lockheed-Martin Corp.*, 328 F.3d 374, 378 (7th Cir. 2003).

12 A court has discretion to *sua sponte* require a plaintiff to comply with FED. R. OF CIV. P.
13 8(a)(2). *Fikes v. City of Daphne, et al.*, 79 F.3d 1079, 1083, Fn. 6 (11th Cir. 1996). *See also Johnson*
14 *Enterprises of Jacksonville, Inc. v. FPL Group, Inc. et al.*, 162 F.3d 1290, 1332, Fn. 94 (11th Cir. 1998).

15 Neither the court nor the Defendant should be required to try to plow through the
16 Plaintiff's Complaint in an attempt to get the matter disposed of on its merits.


17 Accordingly, the court will enter the following orders:

- 18 1. The Plaintiff is ORDERED to file an amended complaint which complies
19 with Rules 8 and 10 of the FED. R. OF CIV. P. (made applicable to
20 bankruptcy proceedings by FED. R. OF BANKR. P. 7008 and 7010) within
21 20 days;
 - 22 2. If the Plaintiff fails to file such an amended complaint within such period,
23 his Complaint shall be dismissed with prejudice; and
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3. The Defendant's motion to dismiss is DENIED, as moot, without prejudice to re-urging the motion should the Plaintiff comply with this court's order to file an amended complaint.

A separate order will issue.

DATED: December 14, 2005.


JAMES M. MARLAR
UNITED STATES BANKRUPTCY JUDGE

COPIES served as indicated below this 15
day of December, 2005, upon:

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