

PATTY O. WEEKS
CLERK OF THE DIST COURT
DEPUTY

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF NEZ PERCE

DPW ENTERPRISES LLC and
MOUNTAIN PRIME 2018 LLCS,

Plaintiffs,

v.

JEREMY L. BASS; DWAYNE PIKE, and
UNKNOWN PARTIES IN POSSESSION
OF THE REAL PROPERTY KNOWN AS:

1515 21ST Ave., Lewiston, ID 83501

Defendants.

CASE NO. CV35-24-1063

OPINION AND ORDER ON
MOTION TO DISMISS AND
STRIKE SUMMONS AND
COMPLAINT

This matter came before the Court on Defendant Jeremy Bass's Motion to Dismiss and Strike Summons and Complaint. The Plaintiff is represented by Lewis Stoddard, of the firm Halliday, Watkins & Mann. Defendant Bass is representing himself as a pro se litigant. Defendant Pike is represented by Ken Nagy, of Idaho Legal Aid.¹ The Court heard argument on the motion via Zoom on October 8, 2024. The Court, having heard argument and being fully advised in the matter, hereby renders its decision.

¹ Counsel for Pike filed a Response to Motions of Co-Defendant on September 17, 2024, noting that Pike did not object to Bass's motion. Having no objection, counsel was not in attendance for this hearing; however, Mr. Pike was present at the zoom hearing.

BACKGROUND

This case seeks to eject the Defendants from real property located at 1515 21st Street, in Lewiston, Idaho. Following a default under the terms of the Note and Deed of Trust encumbering the property, a Trustee's Sale was conducted and a Trustee's Deed was issued to the Plaintiffs. *Complaint*, at 2. The Trustee's Deed is attached to the Complaint as Exhibit A. The Complaint asserts that the Plaintiffs were entitled to possession of the property on the tenth day following the sale, and the Defendants have refused to surrender the property. *Complaint*, at 2. The Plaintiffs are seeking an Order and Writ of Ejectment authorizing the County Sheriff to return possession of the property to the Plaintiffs. Defendant Bass filed a motion to dismiss, which is currently before the Court for review.

ANALYSIS

Bass set forth five arguments in support of his motion to dismiss and strike summons. Bass argues there was improper conduct of foreclosure and trustee's deed; an invalid foreclosure auction; failure to join necessary parties; conflict of interest; and no hearing of eviction. Bass failed to provide any supporting documentation to support his arguments. In addition, Bass fails to cite any rules or grounds upon which he is seeking dismissal.

At argument, Bass indicated that he was unsure of the correct procedures and requirement when it came to the motion before the Court, especially in light of this Court's question regarding whether Bass had any affidavits or other evidence in support of his motion. The Court acknowledges that the pending litigation addresses complex

matters, however, it bears repeating that self-represented (or “pro se”) litigants must adhere to the same standard as represented parties.

“Pro se litigants are not accorded any special consideration simply because they are representing themselves and are not excused from adhering to procedural rules.” *Michalk*, 148 Idaho at 229, 220 P.3d at 585 (quoting *Nelson v. Nelson*, 144 Idaho 710, 718, 170 P.3d 375, 383 (2007)).

Reid's status as a pro se litigant does not grant him any privileges not accorded to other litigants; he is held to the same standard as a represented party.

Axelrod as Tr. of David W. Axelrod Fam. Tr. dated June 13, 2017 as restated on Sept. 28, 2018 v. Reid Ltd. P'ship, 551 P.3d 777, 788 (Idaho 2024).

With respect to the motion to dismiss, where Defendant Bass has not specified the procedural basis for the motion, this Court will turn to I.R.C.P. 12(b)(6), which addresses motions to dismiss for failure to state a claim.

A 12(b)(6) motion looks only at the pleadings to determine whether a claim for relief has been stated. On review of a dismissal, this Court determines whether the non-movant has alleged sufficient facts in support of his claim, which if true, would entitle him to relief. In doing so, the Court draws all reasonable inferences in favor of the non-moving party.

Fulfer v. Sorrento Lactalis, Inc., 171 Idaho 296, 300, 520 P.3d 708, 712 (2022) (quoting *Hammer v. Ribi*, 162 Idaho 570, 572, 401 P.3d 148, 150 (2017)). Further, “courts are not required . . . to deem legal conclusions as admitted merely because they were plead [sic] as factual allegations.” *McCreery v. King*, 172 Idaho 598, 535 P.3d 574, 579 (2023).

Had the Defendant provided other evidence in support of his motion, the Court would have considered the motion to be a motion for summary judgment.

Under Rule 12(b)(6), “[a]fter viewing all facts and inferences from the record in favor of the non-moving party, the Court will ask whether a claim for relief has been stated.” *Losser v. Bradstreet*, 145 Idaho 670, 673, 183 P.3d 758, 761 (2008) (quoting *Gallagher v. State*, 141 Idaho 665, 667,

115 P.3d 756, 758 (2005)). Dismissal “for failure to state a claim should not be granted ‘unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim that would entitle him to relief.’ ” *Taylor v. Maile*, 142 Idaho 253, 257, 127 P.3d 156, 160 (2005) (quoting *Gardner v. Hollifield*, 96 Idaho 609, 611, 533 P.2d 730, 732 (1975)). A Rule 12(b)(6) motion to dismiss in which “matters outside the pleadings are presented to and not excluded by the court ... must be treated as one for summary judgment under Rule 56. All parties must be given a reasonable opportunity to present all the material that is pertinent to the motion.” I.R.C.P. 12(d)

Paslay v. A&B Irrigation Dist., 162 Idaho 866, 868–69, 406 P.3d 878, 880–81 (2017).

As noted by this case, it must appear beyond doubt that Plaintiffs can prove no set of facts in support of their claim. That is not the situation here.

The Plaintiffs, as non-movants, have alleged sufficient facts in the pleadings to support the claims asserted. The Defendants arguments in support of the motion to dismiss are meritless and it appears they are addressing issues beyond the scope of the lawsuit currently pending before this Court.

Based upon the pleadings, and drawing all reasonable inferences in favor of the Plaintiffs as the non-moving party, the motion to dismiss is denied.

ORDER

The Defendant’s Motion to Dismiss and Strike Summons and Complaint is hereby DENIED.

IT IS SO ORDERED.

Dated this 18th day of October 2024.



MICHELLE M. EVANS – District Judge

CERTIFICATE OF MAILING

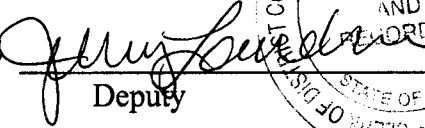
I hereby certify that a true copy of the foregoing OPINION AND ORDER ON MOTION TO DISMISS AND STRIKE SUMMONS AND COMPLAINT was delivered via email by the undersigned at Lewiston, Idaho, this 6th day of October, 2024 to:

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PATTY O. WEEKS, CLERK

By 
Deputy

