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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

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JAMES B. DANT,

Plaintiff,

v.

GENUINE PARTS COMPANY, TIM  
WETHERHAUS, DERRICK VAN ARSDOL,  
and LARRY LARSEN,

Defendants.

**REPORT AND RECOMMENDATION**

Case No. 2:12-cv-756-CW-EJF

District Judge Clark Waddoups

Magistrate Judge Evelyn J. Furse

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*Pro se* Plaintiff James Dant filed a Complaint against Genuine Parts Company, Tim Wetherhaus, Derrick Van Arsdol, and Larry Larsen (collectively, “Defendants”) on August 1, 2012. (ECF No. 3.) On September 6, 2012, Defendants moved this Court to dismiss Mr. Dant’s Complaint under Federal Rules of Civil Procedure 8(a) and 12(b)(6).<sup>1</sup> (ECF No. 7.) Mr. Dant has not filed any opposition to the Defendants’ Motion, and the time in which to do so has passed. The undersigned Magistrate Judge has carefully considered the record in this case and recommends as follows:

**RECOMMENDATION**

For the reasons stated in the Defendants’ Motion and Memorandum, and the lack of opposition thereto, the District Court should DISMISS Plaintiff’s Complaint without prejudice and grant Plaintiff leave to re-plead. Plaintiff’s new pleading must meet the requirements for pleadings set forth in the case law as discussed in Defendants’ Motion to Dismiss. The Court further recommends that if Plaintiff would like legal assistance with amending his Complaint he

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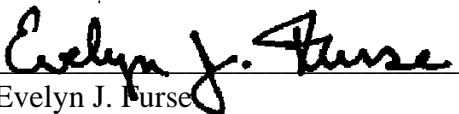
<sup>1</sup> District Judge Clark Waddoups referred this case to the undersigned Magistrate Judge under 28 U.S.C. section 636(b)(1)(B). (ECF No. 5.)

could seek counsel through the Utah State Bar's Modest Means Lawyer Referral Program, *see* <http://silk.utahbar.org/members/lawyer-referral/modest-means-online-referral-request/>. A copy of the application for that program is attached to this Order.

The Court will send copies of this Report and Recommendation to all parties, who are hereby notified of their right to object. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The parties must file any objection to this Report and Recommendation within fourteen (14) days after receiving it. *Id.* Failure to object may constitute waiver of objections upon subsequent review.

DATED this 5th day of April, 2013.

BY THE COURT:

A handwritten signature in black ink, reading "Evelyn J. Purse", written over a horizontal line.

Evelyn J. Purse  
United States Magistrate Judge



### Modest Means Fee Referral Request

Mail completed application form to:

Utah State Bar  
645 South 200 East  
Salt Lake City, Utah 84111  
Questions? Call 801-530-6077

Full Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State/Zip \_\_\_\_\_

Area Code/Phone Number \_\_\_\_\_

Email \_\_\_\_\_

Number of adults living in your household \_\_\_\_\_

Number of children living in your household \_\_\_\_\_

What is your gross household income per month?  
(Income from ALL household members must be documented.)

Wages \_\_\_\_\_

Social Security/SSDI income \_\_\_\_\_

Unemployment Compensation \_\_\_\_\_

Child Support \_\_\_\_\_

Maintenance \_\_\_\_\_

Worker's Compensation \_\_\_\_\_

Other (specify source and amount) \_\_\_\_\_

What are your bank account balances?

Checking \_\_\_\_\_

Savings \_\_\_\_\_

Other \_\_\_\_\_

Do you own any of the items listed below? If so, list the value or balance of each:

Stocks or Bonds \_\_\_\_\_

Certificates of Deposit \_\_\_\_\_

Retirement Accounts \_\_\_\_\_

Investment Accounts \_\_\_\_\_

Real Property: Primary residences, secondary etc.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Do you have additional income available to you from an outside source that you wish to be considered in determining your income status?

\_\_\_\_\_  
\_\_\_\_\_

Do you pay child support and/or maintenance? If so, what is the amount per month? (enclose brief documentation):

\_\_\_\_\_

Name of opposing party:

\_\_\_\_\_

Name of opposing attorney (if known):

\_\_\_\_\_

Name/location of court (if known):

\_\_\_\_\_

Where would you like the attorney to be located? (which county):

\_\_\_\_\_

Do you need an attorney who speaks a language other than English? If so, what language?

\_\_\_\_\_

Do you have any special requirements?

\_\_\_\_\_

List the names of any attorneys you have already contacted or attorneys to whom you would NOT want to be referred.

\_\_\_\_\_

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Please provide a brief description of your legal matter. (Use back of form or attach additional sheets of paper if necessary.)

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<b>Bankruptcy:</b> <input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 13	<b>Criminal Law:</b> <input type="checkbox"/> Pre-charging Consultation <input type="checkbox"/> Misdemeanors <input type="checkbox"/> Ordinance Violations <input type="checkbox"/> Traffic Offenses <input type="checkbox"/> Expungement <input type="checkbox"/> Juvenile Court	<b>Family Law:</b> <input type="checkbox"/> Child Support <input type="checkbox"/> Custody <input type="checkbox"/> Divorce <input type="checkbox"/> Grandparent's rights <input type="checkbox"/> Maintenance <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Visitation
<b>Consumer Law:</b> <input type="checkbox"/> Debt Collection <input type="checkbox"/> Consumer Fraud <input type="checkbox"/> Contracts <input type="checkbox"/> Identity Theft <input type="checkbox"/> Insurance Policy Disputes <input type="checkbox"/> Small Claims	<b>Probate Law:</b> <input type="checkbox"/> Power of Attorney <input type="checkbox"/> Estate Planning <input type="checkbox"/> Advanced Health Care Directive <input type="checkbox"/> Guardianships <input type="checkbox"/> Probates	<b>Real Property Law:</b> <input type="checkbox"/> Landlord Tenant <input type="checkbox"/> Construction <input type="checkbox"/> Mechanics Liens <input type="checkbox"/> Foreclosures <input type="checkbox"/> Other

*I certify that the information included on this form is complete and correct to the best of my knowledge. I also understand that I am participating in Modest Means program that is not free and that I am expected to pay the agreed upon fees between the attorney and myself.*

*I understand that the Utah State Bar makes no claims, promises, or guarantees about the absolute accuracy, completeness, or adequacy of the attorney(s) working with me on the legal issues and expressly disclaims liability for errors and omissions. Each attorney is responsible for their own errors and omissions. No warranty of any kind, implied or expressed, or statutory is being made.*

*The Utah State Bar does not collect personal information about you unless you choose to provide that information to us or you choose to use a service on this web site where gathering personal information is necessary in order to deliver the service. The information submitted is used only to provide the requested services and will not be sent on to third parties. Use of these services is voluntary.*

Signature \_\_\_\_\_ Date \_\_\_\_\_

**Don't forget to enclose documentation of income and expenses that you want us to consider.**