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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

DAVID D. CROSSETT,

Plaintiff,

v.

THE CHURCH OF JESUS CHRIST OF
LATTER-DAY SAINTS, a Utah Corporation
Sole,

Defendant.

MOTION TO DISMISS

Case No. 1:24-cv-00205-JCB

Magistrate Judge Jared C. Bennett

Pursuant to [Federal Rules of Civil Procedure 12\(b\)\(6\)](#), [12\(b\)\(1\)](#), and [DUCivR 7-1\(a\)](#), The Church of Jesus Christ of Latter-day Saints (the “Church”) moves the Court to dismiss the Plaintiff’s complaint in its entirety. Pursuant to [DUCivR 7-1\(a\)\(1\)](#), the foregoing motion (the “Motion”) is supported by the following memorandum of law.

RELIEF SOUGHT AND GROUNDS FOR RELIEF

The Church moves to dismiss Plaintiff’s complaint in its entirety because it asserts a single claim against the Church under Title III of the Americans with Disabilities Act (“ADA”)¹, which, by the statute’s express terms, does not apply to the Church as a religious organization. Plaintiff

¹ Plaintiff is not and does not allege he is a Church employee covered by Title I of the ADA. And, of course, the Church is not a governmental or other public entity under Title II or a telecommunications company subject to Title IV. Accordingly, Plaintiff’s claim can only be alleged under Title III.

asserts no other basis for invoking this Court’s subject matter jurisdiction other than the ADA. Because Plaintiff’s claim under the ADA is invalid on its face, the Court lacks subject-matter jurisdiction over this case.

FACTUAL BACKGROUND

Plaintiff is a former member of the Church. In 2007, he voluntarily resigned his Church membership. *See* 12/17/24 *Complaint*, DN1, p.4. Sometime thereafter, Plaintiff sought and received readmission to the Church. *Id.* Plaintiff again resigned his membership in 2011. *Id.* Plaintiff’s complaint seeks over one hundred million dollars in damages.² The basis of his complaint is that he “made several legal ADA accommodations requests” for his name to be removed from Church records, and that the “Mormon church assured plaintiff both times that his name will be removed from all records of Mormon church[, but] Mormon church refused to follow through to removed [*sic*] plaintiff name either time to date.” *Id.*, pg. 4. In addition to money damages, Plaintiff seeks an order compelling the Church to “completely remove, absolve, redact, [and] expunge” any record of any kind containing his name. *Id.*, pg. 5.

ARGUMENT

I. Plaintiff’s Complaint Fails to State a Claim Under the Americans with Disabilities Act

A. The ADA Does Not Apply to the Church Because It Is a Religious Organization

Plaintiff’s Civil Cover Sheet states that his claims are brought under “Title 3” of the ADA. *See Civil Cover Sheet*, p.1. The cover sheet and Plaintiff’s complaint indicate that Plaintiff’s claim against the Church rests solely upon an alleged violation of the ADA for failing

² Plaintiff, accompanied by an individual named Guivarch A. Lumsden, attempted to serve process on the Church by entering a Church-owned building in Salt Lake City, Utah and leaving a folder containing the summons, complaint, and various other documents with a receptionist, who informed him that she was not authorized to accept service. *See* 12/30/24 *Proof of Service*, DN6, pg.1, wherein Mr. Lumsden declares service of process.

to accommodate his request to remove any reference to him in any Church “archive data base.” *Id.*; see also *Complaint*, p.4. However, as a private religious organization, Title III of the ADA does not apply to the Church. See 42 U.S.C. § 12187 (“The provisions of this subchapter shall not apply ...to religious organizations or entities controlled by religious organizations, including places of worship.”); see also *Medina v. Catholic Health Initiatives*, 877 F.3d 1213, 1232 (10th Cir. 2017) (acknowledging that § 12187 of the ADA “exempt[s] religious organizations from [Title III’s] public accommodation requirements”). Because the Title III of the ADA does not apply to the Church, and Plaintiff’s complaint alleges no other legal basis for his claims, his complaint should be dismissed.

II. The Court Lacks Subject Matter Jurisdiction Over Plaintiff’s Claim

A. As the ADA Does Not Apply to Plaintiff’s Claim, There Is No Federal Question to Support Subject Matter Jurisdiction

Federal Rule of Civil Procedure 12(b)(1) “provides that a party may move to dismiss a claim on the grounds the court lacks jurisdiction.” *Graff v. Aberdeen Enterprises, II, Inc.*, 65 F.4th 500, 507 (10th Cir. 2023). “Federal question jurisdiction ‘exists only when a federal question is presented on the face of the plaintiff’s properly pleaded complaint.’” *Parker v. WI Waterstone, LLC.*, 790 Fed. Appx. 926, 929 (10th Cir. 2019) (quoting *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987)). “When a federal claim is clearly unsubstantiated, frivolous, or devoid of merit, ‘dismissal for lack of subject-matter jurisdiction because of the inadequacy of the federal claim is proper.’” *Id.* (quoting *Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 89 (1998)).

Plaintiff’s Complaint only asserts a claim under the ADA. See *Civil Cover Sheet*, p.1; see also *Complaint*, p.4. As explained above, Title III of the ADA does not apply to the Church because it is an exempt religious organization. See p. 2-3, *supra*. As such, Plaintiff’s federal

claim is “clearly unsubstantiated” and “devoid of merit.” Without a viable federal law claim, Plaintiff’s complaint does not present a federal question, and should be dismissed for lack of subject matter jurisdiction.

CONCLUSION

For the foregoing reasons, the Church respectfully moves this Court to dismiss Plaintiff’s Complaint in its entirety.

DATED: January 13, 2025

FOLEY & LARDNER LLP

/s/ David J. Jordan _____

David J. Jordan

Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of January, 2025, a true and correct copy of the foregoing **MOTION TO DISMISS** was served via the court's electronic notification and/or e-mail on the following:

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/s/ Stacy Kamaya