ORDERED.

Dated: June 25, 2019

Karen S. Jennemann
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION
www.flmb.uscourts.gov

In re	)	
	)	
MARK S. AMAR and VERONICA AMAR,	)	Case No. 6:18-bk-07618-KSJ
	)	Chapter 7
Debtors.	)	
	)	
	)	
MARK S. AMAR and VERONICA AMAR,	)	
	)	
	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Adversary No. 6:19-ap-00060-KSJ
	)	
REVERSE MORTGAGE, et al.,	)	
	)	
Defendants.	)	
	)	

ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS ADVERSARY PROCEEDING WITH PREJUDICE

Debtors acting *pro se* have filed various incomprehensible papers in this adversary proceeding.[1] The two individual Defendants have filed motions seeking dismissal arguing the

[1] Doc. Nos. 1, 2, 12, 15, 28, and 29.

Debtors' pleadings are ambiguous, nonsensical, and fail to state a claim or cause of action.[2] At the pretrial conference on April 16, 2019, the Court allowed Debtors to file a response explaining their claim, if they opposed dismissal of this adversary proceeding.[3] Debtors timely filed papers titled "oppositions;" however, these objections are even more confusing and incomprehensible than the original papers.[4] Dismissal with prejudice is warranted because the Debtors, after several attempts, fail to state a claim upon which relief can be granted.

Rule 12(b)(6) provides that before an answer is filed a defendant may seek dismissal of a complaint if the complaint fails to state a claim.[5] Disposition of a motion to dismiss under Rule 12(b)(6) focuses only upon the allegations in the complaint and whether those allegations state a claim for relief. In reviewing a motion to dismiss, courts must accept the allegations in the complaint as true and construe them in the light most favorable to the plaintiff.[6] Under Rule 8(a)(2), a complaint must contain a "short and plain statement of the claim showing that the pleader is entitled to relief."[7] Rule 8(a)(3) requires a "demand for the relief sought."[8] "While a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff's obligation to provide the 'grounds' of his 'entitle[ment] to relief' requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do."[9]

---

[2] Doc. Nos. 34 (filed by Defendant David Rosenberg) and 41 (filed by Defendant Alan Schwartzseid).
[3] Doc. Nos. 38 and 39.
[4] Doc. Nos. 44, 45, 46, 47.
[5] Fed. R. Civ. P. 12(b)(6).
[6] *Brophy v. Jiangbo Pharm., Inc.*, 781 F.3d 1296, 1301 (11th Cir. 2015) (quoting *Piedmont Office Realty Trust, Inc. v. XL Specialty Ins. Co.*, 769 F.3d 1291, 1293 (11th Cir. 2014) (quoting *Hill v. White*, 321 F.3d 1334, 1335 (11th Cir. 2003))).
[7] Rule (8)(a) is made applicable in adversary proceedings by virtue of Bankruptcy Rule 7008(a).
[8] Fed. R. Civ. P. 8(a)(3).
[9] *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 127 S. Ct. 1955, 1964-65, 167 L. Ed. 2d 929 (2007) (internal citations omitted).

For a complaint to survive a motion to dismiss, it must contain enough factual matter to "state a claim to relief that is plausible on its face."[10] Facial plausibility is present "when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged."[11] Courts routinely allow amendments to complaints dismissed for failure to state a claim, particularly for *pro se* parties; however, when amendment is futile, dismissal with prejudice is merited.[12]

Debtors repeatedly have filed papers, none of which even remotely state a plausible claim. The Court understands the Debtors have no lawyer and are representing themselves, but they absolutely fail to explain their claims. As an example, Debtors filed a response to the pending motions to dismiss.[13] The paper is divided into non-sequentially numbered paragraphs and consists largely of a list of various exhibits with partial sentence descriptions interspersed with quotes from Black's Law Dictionary and various state court pleading references. To illustrate the Debtors' baffling language, one could read this first paragraph 4 on the initial page:

> David Rosenberg, RMS, Perjury, Section 1746 of tile 28 United States Code willfully subscribes as TRUE any Material in Matter which he does not believe to be TRUE. See E.G. Fla 95.525 (2) 837.012.813.013 Fla R. Civ /P.1.140(f).

Many similar opaque and puzzling paragraphs exist. No party rightfully could respond to pleadings like this. And, after so many attempts, allowing any further amendments would be futile.

---

[10] *Ashcroft v. Iqbal*, 556 U.S. 662, 677-78, 129 S. Ct. 1937, 1949, 173 L. Ed. 2d 868 (2009) (citing *Twombly*, 550 U.S. at 570) (internal quotation marks omitted).
[11] *Id.*
[12] *Dragash v. Fed. Nat'l Mortg. Ass'n*, No. 16-12123, 2017 WL 2859508, at *6 (11th Cir. July 5, 2017) ("Nor do we find error in the denial of leave to amend based on futility. While leave to amend ordinarily should be freely given, a district court need not grant even a *pro se* plaintiff leave to amend where amendment would be futile."); *LaCroix v. W. Dist. of Kentucky*, 627 F. App'x 816, 819 (11th Cir. 2015), *cert. dismissed sub nom. LaCroix v. U.S. Dist. Court for W. Dist. of Kentucky*, 136 S. Ct. 996, 194 L. Ed. 2d 2 (2016) (the court "need not allow amendment where a more carefully drafted complaint could not state a claim and is, therefore, futile").
[13] Doc. No. 44.

Accordingly, it is

ORDERED:

1. The Motions to Dismiss (Doc. No. 34 and 41) are **GRANTED**.

2. This adversary proceeding is dismissed with prejudice.

###

The Clerk is directed to serve a copy of this order on interested parties.