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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHADERICK A. INGRAM,

Plaintiff,

No. 2:12-cv-1898 GEB DAD PS

vs.

CITY OF SACRAMENTO, et al.,

FINDINGS AND RECOMMENDATIONS

Defendants.

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Plaintiff, proceeding pro se, commenced this action on July 19, 2012, by filing a complaint and a motion to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. (Doc. Nos. 1 & 2.) This matter was referred to the undersigned in accordance with Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1).

Plaintiff’s in forma pauperis application makes the showing required by 28 U.S.C. § 1915(a)(1). However, a determination that a plaintiff qualifies financially for in forma pauperis status does not complete the inquiry required by the statute. “A district court may deny leave to proceed in forma pauperis at the outset if it appears from the face of the proposed complaint that the action is frivolous or without merit.” Minetti v. Port of Seattle, 152 F.3d 1113, 1115 (9th Cir. 1998) (quoting Tripati v. First Nat. Bank & Trust, 821 F.2d 1368, 1370 (9th Cir. 1987)). See also Smart v. Heinze, 347 F.2d 114, 116 (9th Cir. 1965) (“It is the duty of the District Court to

1 examine any application for leave to proceed in forma pauperis to determine whether the  
2 proposed proceeding has merit and if it appears that the proceeding is without merit, the court is  
3 bound to deny a motion seeking leave to proceed in forma pauperis.”) Moreover, the court must  
4 dismiss an in forma pauperis case at any time if the allegation of poverty is found to be untrue or  
5 if it is determined that the action is frivolous or malicious, fails to state a claim on which relief  
6 may be granted, or seeks monetary relief against an immune defendant. See 28 U.S.C. §  
7 1915(e)(2). A complaint is legally frivolous when it lacks an arguable basis in law or in fact.  
8 Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28  
9 (9th Cir. 1984). Under this standard, a court must dismiss a complaint as frivolous where it is  
10 based on an indisputably meritless legal theory or where the factual contentions are clearly  
11 baseless. Neitzke, 490 U.S. at 327; 28 U.S.C. § 1915(e).

12 To state a claim on which relief may be granted, the plaintiff must allege “enough  
13 facts to state a claim to relief that is plausible on its face.” Bell Atlantic Corp. v. Twombly, 550  
14 U.S. 544, 570 (2007). In considering whether a complaint states a cognizable claim, the court  
15 accepts as true the material allegations in the complaint and construes the allegations in the light  
16 most favorable to the plaintiff. Hishon v. King & Spalding, 467 U.S. 69, 73 (1984); Hosp. Bldg.  
17 Co. v. Trustees of Rex Hosp., 425 U.S. 738, 740 (1976); Love v. United States, 915 F.2d 1242,  
18 1245 (9th Cir. 1989). Pro se pleadings are held to a less stringent standard than those drafted by  
19 lawyers. Haines v. Kerner, 404 U.S. 519, 520 (1972). However, the court need not accept as  
20 true conclusory allegations, unreasonable inferences, or unwarranted deductions of fact. Western  
21 Mining Council v. Watt, 643 F.2d 618, 624 (9th Cir. 1981).

22 The minimum requirements for a civil complaint in federal court are as follows:

23 A pleading which sets forth a claim for relief . . . shall contain (1) a  
24 short and plain statement of the grounds upon which the court’s  
25 jurisdiction depends . . . , (2) a short and plain statement of the  
demand for judgment for the relief the pleader seeks.

26 Fed. R. Civ. P. 8(a).

1 Here, plaintiff's complaint does not contain a short and plain statement of his  
2 claim showing that he is entitled to relief. In this regard, plaintiff's complaint consists of sixteen  
3 pages of rambling, largely incoherent, vague allegations intermixed with references to federal  
4 law.

5 For example, the complaint alleges the following:

6 Defendant's stated above, willingly, knowingly, wrongfully, and  
7 unlawfully defamed Plaintiffs character after filing in forma  
8 pauperis application appropriately for attorney proceedings as the  
9 law requires, Defendants, Geico harassing Plaintiff behind a claim  
10 not being settled that had been open since April of 2012, who gets  
harassed by entities that move forward to do the right thing as the  
law requires being pulled over by the highway patrol for trying to  
settle his auto claim as the law requires through the use of  
defamation of character while using excessive force...

11 (Compl. (Doc. No. 1) at 3.)

12 Although the Federal Rules of Civil Procedure adopt a flexible pleading policy, a  
13 complaint must give the defendant fair notice of the plaintiff's claims and must allege facts that  
14 state the elements of each claim plainly and succinctly. Fed. R. Civ. P. 8(a)(2); Jones v.  
15 Community Redev. Agency, 733 F.2d 646, 649 (9th Cir. 1984). "A pleading that offers 'labels  
16 and conclusions' or 'a formulaic recitation of the elements of cause of action will not do.' Nor  
17 does a complaint suffice if it tenders 'naked assertions' devoid of 'further factual  
18 enhancements.'" Ashcroft v. Iqbal, 556 U.S.662, 678 (2009) (quoting Twombly, 550 U.S. at  
19 555, 557). A plaintiff must allege with at least some degree of particularity overt acts which the  
20 defendants engaged in that support the plaintiff's claims. Jones, 733 F.2d at 649.

21 Having reviewed plaintiff's allegations, the undersigned will make a substantive  
22 finding of frivolousness as to the complaint filed in this action. Although the allegations found  
23 in plaintiff's complaint are difficult to comprehend, they apparently concern a dispute between  
24 plaintiff and his automotive insurance company. In any event, his allegations lack an arguable  
25 basis in law, are indisputably meritless and are thus frivolous. See Neitzke, 490 U.S. at 325-27;  
26 Franklin, 745 F.2d at 1227-28.

1           Accordingly, for the reasons cited above, plaintiff’s complaint should be  
2 dismissed for failure to state a claim upon which relief can be granted.

3           The undersigned has carefully considered whether plaintiff may amend his  
4 pleading to state a claim upon which relief can be granted. “Valid reasons for denying leave to  
5 amend include undue delay, bad faith, prejudice, and futility.” California Architectural Bldg.  
6 Prod. v. Franciscan Ceramics, 818 F.2d 1466, 1472 (9th Cir. 1988). See also Klamath-Lake  
7 Pharm. Ass’n v. Klamath Med. Serv. Bureau, 701 F.2d 1276, 1293 (9th Cir. 1983) (holding that  
8 while leave to amend shall be freely given, the court does not have to allow futile amendments).  
9 In light of the obvious deficiencies of the complaint filed by plaintiff in this action as noted  
10 above, the court finds that it would be futile to grant plaintiff leave to amend.

11           Accordingly, IT IS HEREBY RECOMMENDED that:

- 12           1. Plaintiff’s July 19, 2012 application to proceed in forma pauperis (Doc. No. 2)
- 13 be denied;
- 14           2. Plaintiff’s July 19, 2012 complaint (Doc. No. 1) be dismissed without leave to
- 15 amend; and
- 16           3. This action be closed.

17           These findings and recommendations will be submitted to the United States  
18 District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within  
19 fourteen (14) days after being served with these findings and recommendations, plaintiff may file  
20 written objections with the court. A document containing objections should be titled “Objections  
21 to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file

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1 objections within the specified time may, under certain circumstances, waive the right to appeal  
2 the District Court's order. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

3 DATED: November 8, 2012.

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7 DALE A. DROZD  
8 UNITED STATES MAGISTRATE JUDGE

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