

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 29 2022

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

MICHAEL A. BRUZZONE,

No. 22-15172

Plaintiff-Appellant,

D.C. No. 2:21-cv-01539-TLN-CKD

v.

MEMORANDUM\*

INTEL CORPORATION,

Defendant-Appellee.

Appeal from the United States District Court  
for the Eastern District of California  
Troy L. Nunley, District Judge, Presiding

Submitted June 15, 2022\*\*

Before: SILVERMAN, WATFORD, and FORREST, Circuit Judges.

Michael A. Bruzzone appeals pro se from the district court's judgment dismissing his action, declaring him a vexatious litigant, and entering a pre-filing review order against him. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under Federal Rule Civil Procedure 12(b)(6), *Hebbe v.*

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

*Pliler*, 627 F.3d 338, 341 (9th Cir. 2010), and for an abuse of discretion the entering of a pre-filing review order against a vexatious litigant, *Ringgold-Lockhart v. County of Los Angeles*, 761 F.3d 1057, 1062 (9th Cir. 2014). We modify the district court’s order and otherwise affirm.

The district court properly dismissed Bruzzone’s action against Intel because Bruzzone failed to allege facts sufficient to state a plausible claim for relief. *See Hebbe*, 627 F.3d at 341-42 (although pro se pleadings are to be construed liberally, a plaintiff must present factual allegations sufficient to state a plausible claim for relief); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (plaintiff must allege facts that “allow[] the court to draw the reasonable inference that the defendant is liable for the misconduct alleged”).

The district court declared Bruzzone a vexatious litigant and entered a pre-filing order requiring a reviewing judge to refuse to file any complaint Bruzzone submits pro se against Intel Corporation. Although we affirm the decision to declare Bruzzone a vexatious litigant and enter a pre-filing order against him, the district court’s pre-filing order is not sufficiently narrowly-tailored, as it does not allow the judge who reviews Bruzzone’s complaints the discretion to allow complaints deemed non-frivolous or non-duplicative to be filed. *See Moy v. United States*, 906 F.2d 467, 470-71 (9th Cir. 1990) (modifying a district court pre-filing review order deemed overly broad). We modify the relevant

portion of the order as follows, with emphasis on the addition: “The Duty Judge shall determine whether the case constitutes pro se litigation by Plaintiff against Intel; if so, then the Duty Judge shall dismiss the action without comment pursuant to this pre-filing order *if the judge determines the complaint is duplicative or frivolous. . . .*”

Bruzzozone’s request for transfer of this case, set forth in the opening brief, is denied.

**AFFIRMED.**