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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8 Marguerite Assour,

No. CV-12-00869-PHX-JAT

9 Plaintiff,

ORDER

10 v.

11 Adecco,

12 Defendant.
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15 Pending before the Court are: (1) Defendant's Motion to Dismiss for Failure to
16 State a Claim (Doc. 7) and (2) Plaintiff's Motion for Status (Doc. 12). The Court now
17 rules on the Motions.

18 On April 26, 2012, Plaintiff pro se filed a Complaint against Defendant. In her
19 Complaint, Plaintiff alleges that:

20 I was wrongly terminated for whistleblowing on the manager
21 for unethical practices and including not being compensated
22 for overtime. I worked at Amazon for two years without ever
23 being put on lay off. After whistleblowing I was laid off on
24 1-12-2012. Want [sic] to be compensated for the pain and
suffering that I had to go threw [sic] with a Manager who was
intimidating and threatening.

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26 Plaintiff does not include any other allegations in her Complaint. Defendant now
27 moves to dismiss the Complaint arguing that it does not state a claim upon which relief
28 can be granted pursuant to Federal Rules of Civil Procedure 12(b)(6) and 8.

1 The Court may dismiss a complaint for failure to state a claim under 12(b)(6) for
2 two reasons: 1) lack of a cognizable legal theory and 2) insufficient facts alleged under a
3 cognizable legal theory. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th
4 Cir.1990). To survive a Rule 12(b)(6) motion for failure to state a claim, a complaint
5 must meet the requirements of Rule 8. Rule 8(a)(2) requires a “short and plain statement
6 of the claim showing that the pleader is entitled to relief,” so that the defendant has “fair
7 notice of what the . . . claim is and the grounds upon which it rests.” *Bell Atl. Corp. v.*
8 *Twombly*, 550 U.S. 544, 555 (2007) (internal citation omitted).

9 A complaint must contain sufficient factual matter, which, if accepted as true,
10 states a claim to relief that is “plausible on its face.” *Id.* Facial plausibility exists if the
11 pleader pleads factual content that allows the court to draw the reasonable inference that
12 the defendant is liable for the misconduct alleged. *Id.* Plausibility does not equal
13 “probability,” but plausibility requires more than a sheer possibility that a defendant has
14 acted unlawfully. *Id.*

15 In deciding a motion to dismiss under Rule 12(b)(6), the Court must construe the
16 facts alleged in a complaint in the light most favorable to the drafter of the complaint, and
17 the Court must accept all well-pleaded factual allegations as true. *Shwarz v. United*
18 *States*, 234 F.3d 428, 435 (9th Cir. 2000).

19 It is not clear from Plaintiff’s complaint what legal theories she is asserting or the
20 facts giving rise to those legal theories. While it is clear that Plaintiff believes she has
21 been wrongfully terminated for whistleblowing, Plaintiff does not allege any of facts
22 regarding her termination that would give Defendant fair notice of the grounds on which
23 Plaintiff’s claims rest. Moreover, it is possible that a claim for wrongful termination
24 could arise from several federal and state statutes. In this case, it is not clear whether
25 Plaintiff is attempting to sue Defendant under federal or state law or what the elements of
26 any such claim would be. Further, although Plaintiff states that she was “wrongfully
27 terminated,” wrongful termination is legal conclusion that is not supported by the sparse
28 facts alleged in Plaintiff’s complaint.

1 In response to Defendant’s Motion to Dismiss, Plaintiff asserts that she is “unable
2 to understand the legal jargon in the motion,” and that she has “tried to contact the court
3 to get an explanation and there has not been anyone willing to help me do so.” (Doc. 8 at
4 2). While the Court understands that it can be difficult to proceed with a lawsuit pro se,
5 Plaintiff has chosen to file a lawsuit and must adhere to the rules attendant to such filing.
6 *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1986) (“Pro se litigants must follow the same
7 rules of procedure that govern other litigants.”); *Jacobsen v. Filler*, 790 F.2d 1362, 1364
8 (9th Cir. 1986) (“[P]ro se litigants in the ordinary civil case should not be treated more
9 favorably than parties with attorneys of record.”). The Court cannot give Plaintiff legal
10 advice or act in the capacity of her lawyer. *Pliler v. Ford*, 542 U.S. 225, 232 (2004)
11 (requiring trial judges to explain the details of federal procedure or act as the pro se’s
12 counsel “would undermine district judges’ role as impartial decisionmakers.”). Rather, it
13 is Plaintiff’s obligation to determine what her legal claims are and to state facts giving
14 rise to such claims in order to give Defendant fair notice of the claims against it and the
15 facts giving rise to such claims.

16 Plaintiff has filed several responses to Defendant’s Motion to Dismiss and has
17 attached various documents to those responses. While Plaintiff may believe that those
18 documents support her allegations in this case, Plaintiff has failed to explain the meaning
19 of those documents and has failed to incorporate any pertinent facts from those
20 documents into the allegations in her Complaint.

21 Accordingly, Plaintiff has failed to state a claim upon which relief can be granted
22 pursuant to Federal Rules of Civil Procedure 8 and 12(b)(6).

23 The Court will allow Plaintiff to file an amended complaint. If Plaintiff chooses to
24 file an amended complaint, Plaintiff must identify her legal theories and the facts giving
25 rise to those theories. *See McHenry v. Renne*, 84 F.3d 1172, 1176, 1178 (9th Cir. 1996)
26 (where complaint links plaintiffs’ fact allegations to specific defendants, it [must also]
27 inform defendants of the *legal* claims being asserted.”) (emphasis in original). The
28 Complaint must set forth “who is being sued, for what relief, and on what theory, with

1 enough detail to guide discovery.” *Id.* at 1177. Plaintiff is warned that, despite her pro se
2 status, she must comply with the rules of this Court¹ and failure to do so could result in
3 the dismissal of this case.


4 Based on the foregoing,

5 **IT IS ORDERED** that Defendant’s Motion to Dismiss for Failure to State a
6 Claim (Doc. 7) is granted.

7 **IT IS FURTHER ORDERED** that Plaintiff’s Motion for Status (Doc. 12) is
8 denied as moot.

9 **IT IS FURTHER ORDERED** that Plaintiff shall file an amended complaint
10 within 30 days of the date of this Order. If Plaintiff does not file an amended complaint
11 within 30 days of the date of this Order, this case will be dismissed without further notice
12 and judgment will be entered accordingly.

13 Dated this 9th day of July, 2013.

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James A. Teilborg
Senior United States District Judge

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¹ This includes the Federal Rules of Civil Procedure and the District Court of Arizona’s Local Rules of Civil Procedure. The District’s Rules may be found on the District Court’s internet web page at www.azd.uscourts.gov/. All other rules may be found at www.uscourts.gov/rules/.