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

8 Andre H. Ali,

9 Plaintiff,

10 v.

11 Cash Time Title Loan Centers,

12 Defendant.

No. CV-17-00546-TUC-BGM

ORDER

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15 Plaintiff Andre Ali, filed a *pro se* Complaint (Doc. 1) and did not immediately pay
16 the \$350.00 civil action filing fee, but filed an Application to Proceed in District Court
17 Without Prepaying Fees or Costs (Doc. 2).

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20 **I. APPLICATION TO PROCEED IN FORMA PAUPERIS**

21 The Court may allow a plaintiff to proceed without prepayment of fees when it is
22 shown by affidavit that he “is unable to pay such fees[.]” 28 U.S.C. § 1915(a)(1).
23 Plaintiff’s statement, made under penalty of perjury, establishes that Plaintiff receives
24 disability benefits. The statement also indicates that Plaintiff’s sole asset is his vehicle
25 and his expenses nearly equal his income. The Court finds Plaintiff is unable to pay the
26 fees. Plaintiff’s Application to Proceed in District Court Without Prepaying Fees or
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1 Costs (Doc. 2) will be granted.
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4 **II. STATUTORY SCREENING OF PLAINTIFF’S COMPLAINT**

5 This Court is required to dismiss a case if the Court determines that the allegation
6 of poverty is untrue, 28 U.S.C. § 1915(e)(2)(A), or if the Court determines that the action
7 “(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or
8 (iii) seeks monetary relief against a defendant who is immune from such relief.” 28
9 U.S.C. § 1915(e)(2)(B).
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11 A pleading must contain a “short and plain statement of the claim showing that the
12 pleader is entitled to relief[.]” Rule 8(a), Fed. R. Civ. P. While Rule 8 does not demand
13 detailed factual allegations, “it demands more than an unadorned, the-defendant-
14 unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S.Ct. 1937,
15 1949, 173 L.Ed.2d 868 (2009). “Threadbare recitals of the elements of a cause of action,
16 supported by mere conclusory statements, do not suffice.” *Id.* Where the pleader is *pro*
17 *se*, however, the pleading should be liberally construed in the interests of justice.
18 *Johnson v. Reagan*, 524 F.2d 1123, 1124 (9th Cir. 1975); *see also Hebbe v. Pliler*, 627
19 F.3d 338, 342 (9th Cir. 2010). Nonetheless, a complaint must set forth a set of facts that
20 serves to put defendants on notice as to the nature and basis of the claim(s). *See Brazil v.*
21 *U.S. Dept. of Navy*, 66 F.3d 193, 199 (9th Cir. 1995).
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26 A “complaint [filed by a *pro se* plaintiff] ‘must be held to less stringent standards
27 than formal pleadings drafted by lawyers.’” *Hebbe*, 627 F.3d at 342 (quoting *Erickson v.*
28 *Pardus*, 551 U.S. 89, 94 (2007) (*per curiam*)). “Rule 8(a)’s simplified pleading standard

1 applies to all civil actions, with limited exceptions.” *Swierkiewicz v. Sorema N.A.*, 534
2 U.S. 506, 513, 122 S.Ct. 992, 998, 152 L.Ed.2d 1 (2002). “Given the Federal Rules’
3 simplified standard for pleading, ‘[a] court may dismiss a complaint only if it is clear that
4 no relief could be granted under any set of facts that could be proved consistent with the
5 allegations.’” *Id.* at 514, 122 S.Ct. at 998 (quoting *Hison v. King & Spaulding*, 467 U.S.
6 69, 73, 104 S.Ct. 2229, 81 L.Ed.2d 59 (1984)) (alterations in original); *see also Johnson,*
7 *et al. v. City of Shelby, Mississippi*, — U.S. —, 135 S.Ct. 346, 346 (2014) (“Federal
8 pleading rules call for ‘a short and plain statement of the claim showing that the pleader
9 is entitled to relief,’ Fed. Rule Civ. Proc. 8(a)(2); they do not countenance dismissal of a
10 complaint for imperfect statement of the legal theory supporting the claim asserted”).

14 If the Court determines that a pleading could be cured by the allegation of other
15 facts, a *pro se* litigant is entitled to an opportunity to amend a complaint before dismissal
16 of the action. *See Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (en banc). The
17 Court should not, however, advise the litigant how to cure the defects. This type of
18 advice “would undermine district judges’ role as impartial decisionmakers.” *Pliler v.*
19 *Ford*, 542 U.S. 225, 231 (2004); *see also Lopez*, 203 F.3d at 1131 n.13 (declining to
20 decide whether the court was required to inform a litigant of deficiencies).
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24 **III. COMPLAINT**

25 Plaintiff’s Complaint appears to allege that Defendant attempted to illegally
26 collect a debt, and refused to accept Plaintiff’s nationality. Compl. (Doc. 1) at 4, 7.
27 Plaintiff seeks eight (8) million dollars as compensation for these alleged wrongs. *Id.* at
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4 **IV. SUBJECT MATTER JURISDICTION**

5 As an initial matter, this Court must consider whether it has jurisdiction to hear
6 Mr. Ali's claims. "Federal courts are courts of limited jurisdiction." *Kokkonen v.*
7 *Guardian Life Ins. Co. of America*, 511 U.S. 375, 377, 114 S.Ct. 1673, 1675, 128
8 L.Ed.2d 391 (1994). A district court has original jurisdiction "of all civil actions arising
9 under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331. This is
10 known as federal question jurisdiction. District courts also have original jurisdiction "of
11 all civil actions where the matter in controversy exceeds the sum or value of \$75,000,
12 exclusive of interest and costs, and is between (1) citizens of different States; (2) citizens
13 of a State and citizens or subjects of a foreign state; (3) citizens of different States and in
14 which citizens or subjects of a foreign state are additional parties; and (4) a foreign state,
15 defined in section 1603(a) of this title as plaintiff and citizens of a State or of different
16 States." 28 U.S.C. § 1332. This is referred to as diversity jurisdiction.

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21 Plaintiff's Complaint (Doc. 1) cannot support diversity jurisdiction as Plaintiff and
22 Defendant are both citizens of Arizona. *See* Compl. (Doc. 1). Furthermore, Plaintiff's
23 Complaint (Doc. 1) is devoid of any facts to support that he is alleging a violation of
24 federal law. *See id.* The Complaint (Doc. 1) uses terms such as "pain and suffering,"
25 "predatory lending," and "religious discrimination" without explanation as to the
26 circumstances or relevance of the terms to any legal wrong. *Id.* at 4, 7. Plaintiff also
27 indicates that Defendant allegedly "refuse[d] to accept [his] nationality" without further
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1 explanation. *Id.* at 7. Exhibits attached to the Complaint include a letter to President
2 Obama regarding the Moorish National Republic, a name declaration, and an
3 identification card application, as well as various title loan documents. *See* Compl. (Doc.
4 1) at 9–14; *see also* Discl. of Fact (Doc. 6).

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6 Because the jurisdictional basis of Plaintiff’s Complaint (Doc. 1) cannot be
7 discerned, the Court will dismiss Plaintiff’s Complaint (Doc. 1) for lack of subject matter
8 jurisdiction.
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11 **V. FAILURE TO STATE A CLAIM**
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13 Plaintiff’s Complaint (Doc. 1) does not contain any facts beyond mere allegations
14 that he suffered losses. Such “the-defendant-unlawfully-harmed-me” accusations are
15 insufficient to state a claim under Rule 8, Federal Rules of Civil Procedure. *Ashcroft v.*
16 *Iqbal*, 556 U.S. 662, 129 S.Ct. 1937, 1949, 173 L.Ed.2d 868 (2009). Further, Plaintiff’s
17 Complaint (Doc. 1) fails to provide sufficient detail to put defendants on notice as to the
18 nature and basis of his claims. *See Brazil v. U.S. Dept. of Navy*, 66 F.3d 193, 199 (9th
19 Cir. 1995). In light of the insufficiency of the factual basis, Plaintiff’s Complaint (Doc.
20 1) will be dismissed with leave to amend.
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24 **VI. LEAVE TO AMEND**
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26 Within 30 days, Plaintiff may submit an amended complaint. Plaintiff’s amended
27 complaint should clearly set out each claim Plaintiff is making, and name all appropriate
28 parties. Any amended complaint submitted by Plaintiff should be clearly designated as

1 such on the face of the document. Plaintiff must also abide by the strictures discussed in
2 Section IV., *supra*.

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4 An amended complaint supersedes the original Complaint. *Ferdik v. Bonzelet*,
5 963 F.2d 1258, 1262 (9th Cir. 1992); *Hal Roach Studios v. Richard Feiner & Co., Inc.*,
6 896 F.2d 1542, 1546 (9th Cir. 1990). After amendment, the original Complaint is treated
7 as nonexistent. *Ferdik*, 963 F.2d at 1262. Thus, grounds for relief alleged in the original
8 Petition that are not alleged in an amended petition are waived. *King v. Atiyeh*, 814 F.2d
9 565, 567 (9th Cir. 1987).
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13 **VII. MISCELLANEOUS FILING**

14 Plaintiff also filed a document entitled MDIP Rules of Federal Civil Proceedings
15 [sic] Violations (Doc. 10). The Court notes that the Complaint has not yet been served,
16 and as such Defendant cannot be said to have violated any orders in this cause of action.
17 As such, the Court will strike this improperly filed document from the record.
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21 **VIII. WARNINGS**

22 **A. Address Changes**

23 Plaintiff must file and serve a notice of a change of address in accordance with
24 Rule 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion
25 for other relief with a notice of change of address. Failure to comply may result in
26 dismissal of this action.
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B. Rules of Court

Plaintiff shall familiarize himself with the Federal Rules of Civil Procedure and Local Rules for the District of Arizona, both of which can be found on the Court’s web site at www.azd.uscourts.gov. Plaintiff is advised that a Handbook for Self-Represented Litigants is available on the Court’s website at: <http://www.azd.uscourts.gov/handbook-self-represented-litigants>. In addition, Step Up to Justice offers a free, advice-only clinic for self-represented civil litigants on Thursdays from 1:30 p.m. to 3:30 p.m. If Plaintiff wishes to schedule a clinic appointment, she should contact the courthouse librarian, Mary Ann O’Neil, at MaryAnn_O’Neil@LB9.uscourts.gov.

C. Copies

Plaintiff must submit an additional copy of every filing for use by the Court. *See* LRCiv. 5.4. Failure to comply may result in the filing being stricken without further notice to Plaintiff.

D. Possible Dismissal

If Plaintiff fails to timely comply with every provision of this Order, including these warnings, the Court may dismiss this action without further notice. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss an action for failure to comply with any order of the Court).

VIII. CONCLUSION

Accordingly, IT IS HEREBY ORDERED that:

- (1) Plaintiff’s Application to Proceed in District Court Without Prepaying Fees


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or Costs (Doc. 2) is GRANTED;

(2) Plaintiff's Complaint (Doc. 1) is DISMISSED WITH LEAVE TO AMEND. Plaintiff has **thirty (30) days** from the date of filing of this Order to file an amended petition in compliance with this Order; and

(3) Plaintiff's MDIP Rules of Federal Civil Proceedings [sic] Violations is struck from the record.

Dated this 29th day of November, 2017.



Honorable Bruce G. Macdonald
United States Magistrate Judge