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**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

JOHNNY D. COOPER, SR.,	)	1:09cv0078 AWI DLB
	)	
Plaintiff,	)	
v.	)	ORDER DISMISSING COMPLAINT
EDWARD PAPULIAS,	)	WITH LEAVE TO AMEND
	)	
Defendant.	)	

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Plaintiff Johnny D. Cooper, Sr., (“Plaintiff”), appearing pro se and proceeding in forma pauperis, filed the instant complaint on January 14, 2009. For the reasons stated below, Plaintiff’s complaint is dismissed with leave to amend.

**DISCUSSION**

A. Screening Standard

Pursuant to [28 U.S.C. § 1915\(e\)\(2\)](#), the court must conduct an initial review of the complaint for sufficiency to state a claim. The court must dismiss a complaint or portion thereof if the court determines that the action is legally “frivolous or malicious,” fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. [28 U.S.C. § 1915\(e\)\(2\)](#). If the court determines that the complaint fails to state a claim, leave to amend may be granted to the extent that the deficiencies of the complaint can be cured by amendment.

In reviewing a complaint under this standard, the court must accept as true the allegations of the complaint in question, [Hospital Bldg. Co. v. Rex Hospital Trustees, 425 U.S. 738, 740](#)

1 [\(1976\)](#), construe the pleading in the light most favorable to the plaintiff, and resolve all doubts in  
2 the plaintiff's favor. [Jenkins v. McKeithen, 395 U.S. 411, 421 \(1969\)](#).

3 [Fed. R. Civ. P. 8\(a\)](#) provides:

4 A pleading that states a claim for relief must contain: (1) a short and plain statement of  
5 the grounds for the court's jurisdiction, unless the court already has jurisdiction and the  
6 claim needs no new jurisdictional support; (2) a short and plain statement of the claim  
7 showing that the pleader is entitled to relief, and (3) a demand for the relief sought, which  
8 may include relief in the alternative or different types of relief.

9 A complaint must contain a short and plain statement as required by [Fed. R. Civ. P.](#)  
10 [8\(a\)\(2\)](#). Although the Federal Rules adopt a flexible pleading policy, a complaint must give fair  
11 notice and state the elements of the claim plainly and succinctly. [Jones v. Community Redev.](#)  
12 [Agency, 733 F.2d 646, 649 \(9th Cir. 1984\)](#). Plaintiff must allege with at least some degree of  
13 particularity overt acts which the defendants engaged in that support Plaintiff's claim. [Id.](#)  
14 Although a complaint need not outline all elements of a claim, it must be possible to infer from  
15 the allegations that all elements exist and that there is entitlement to relief under some viable  
16 legal theory. [Walker v. South Cent. Bell Telephone Co., 904 F.2d 275, 277 \(5th Cir. 1990\)](#);  
17 [Lewis v. ACB Business Services, Inc., 135 F.3d 389, 405-06 \(6th Cir. 1998\)](#).

18 C. Allegations

19 \_\_\_\_\_ Plaintiff sues Edward Papulias. Plaintiff's filing consists of a one-page complaint and a  
20 60-page attachment. In the one-page complaint, Plaintiff alleges that Mr. Papulias, along with  
21 his brother Lenny Papulias and Franklin Jones are manufacturing "methetamine" inside the  
22 Pappy Foods facility and contaminating liquid products that are distributed throughout Fresno  
23 County and surrounding areas. Complaint, at 1. Plaintiff further alleges that his mother is a  
24 carrier of drugs for "these people." Complaint, at 1. Plaintiff suggests that his allegations are  
25 "sufficient for investigation." Complaint, at 1. Plaintiff also contends that he is being accused of  
26 wrongdoing because of his mother's association and her friends' actions. Plaintiff further alleges  
27 that Defendant is "knowingly administrating poison with disregard to public safety and  
28 employee's health." Complaint, p. 1.

The 60-page attachment submitted with the complaint demonstrates that Plaintiff has an  
action currently pending against Mr. Papulias in Fresno County Superior Court entitled *Johnny*

1 *D. Cooper, Sr. v. Eddie Papulias*, Case No. 08 CE CG 03229, AMS. The attachment is  
2 comprised of documents filed in that action.

3 D. Analysis

4 Plaintiff fails to cite a statute or other ground for federal jurisdiction as required pursuant  
5 to Rule 8. The Federal Courts are courts of limited jurisdiction. Unlike the state courts, there is  
6 no inherent or general subject matter jurisdiction. The Federal Court can adjudicate only those  
7 cases that the Constitution and Congress authorize them to adjudicate which are essentially those  
8 involving diversity of citizenship, or a federal question, or to which the United States is a party.  
9 [Kokkonen v. Guardian Life Ins. Co. Of America, 511 U.S. 375 \(1994\)](#). Plaintiff has not alleged  
10 any basis for Federal Court jurisdiction in the present case. Plaintiff has not alleged the  
11 deprivation of a federal constitutional or statutory right. Nor has plaintiff alleged the citizenship  
12 of any of the parties in the complaint. Plaintiff also provides only a vague explanation of his  
13 claims, which is insufficient to apprise Defendant of his claims. As such, Plaintiff’s complaint is  
14 dismissed, but he will be given an opportunity to amend those claims he believes, in good faith,  
15 are cognizable.

16 Insofar as Plaintiff may be attempting to seek federal relief from a state court  
17 determination, however, he may not do so. It is well established that a federal court lacks subject  
18 matter jurisdiction to engage in appellate review of state-court determinations, as well as claims  
19 “inextricably intertwined” with final state court decisions, even if such “inextricably intertwined”  
20 claims were not actually raised in the state court. See [District of Columbia Court of Appeals v.](#)  
21 [Feldman, 460 U.S. 462, 483-87, 483 n. 16 \(1983\)](#); [Rooker v. Fidelity Trust Co., 263 U.S. 413](#)  
22 [\(1923\)](#); [Olson Farms, Inc. v. Barbosa, 134 F.3d 933, 937 \(9th Cir.1998\)](#) (holding the  
23 “Rooker-Feldman” doctrine is jurisdictional; lower federal courts possess no power to sit in  
24 direct review of state court decisions). A federal district court is a court of original jurisdiction,  
25 and as such has no authority to review the final determinations of a state court in judicial  
26 proceedings. [Worldwide Church of God v. McNair, 805 F.2d 888, 890 \(9th Cir.1986\)](#). As noted,  
27 Plaintiff has an ongoing Fresno County Superior Court action against Mr. Papulias, entitled  
28 *Johnny D. Cooper, Sr. v. Eddie Papulias*, Case No. 08 CE CG 03229, AMS. In that case,

1 Plaintiff has alleged multiple causes of action, including motor vehicle, general negligence,  
2 intentional tort, product liability, theft of personal property, fraud, conspiracy, embezzlement,  
3 unlawful possession of property and forgery against Mr. Papulias. Based on documents  
4 submitted to this Court, it appears that Plaintiff's complaint in the state court action was the  
5 subject of a demurrer by Mr. Papulias. On January 7, 2009, the Superior Court issued a tentative  
6 ruling to sustain the demurrer without leave to amend. The tentative ruling also directed Mr.  
7 Papulias to submit an ex parte application dismissing the action within 7 days of service of the  
8 minute order. On January 8, 2009, the Superior Court issued a Law and Motion Minute Order  
9 sustaining the demurrer without leave to amend. Thereafter, Plaintiff filed the instant action,  
10 which is dated January 10, 2009. Accordingly, Plaintiff may not amend his complaint to seek  
11 review of any final determination of the state court.

12 **ORDER**

13 For these reasons, Plaintiff's complaint must be dismissed. He will be given an  
14 opportunity to amend his complaint, however, to correct these deficiencies. Again, Plaintiff  
15 should only amend those claims that he believes, given the above standards, are cognizable.  
16 Plaintiff must submit an amended complaint within thirty (30) days. Failure to do so will result  
17 in a recommendation that this action be dismissed.

18 Plaintiff is reminded that an amended complaint supercedes the original complaint,  
19 [Forsyth v. Humana, Inc., 114 F.3d 1467, 1474 \(9th Cir. 1997\)](#); [King v. Atiyeh, 814 F.2d 565, 567](#)  
20 [\(9th Cir. 1987\)](#), and must be "complete in itself without reference to the prior or superceded  
21 pleading," Local Rule 15-220. Plaintiff is warned that "[a]ll causes of action alleged in an  
22 original complaint which are not alleged in an amended complaint are waived." [King, 814 F.2d](#)  
23 [at 567](#) (citing to [London v. Coopers & Lybrand, 644 F.2d 811, 814 \(9th Cir. 1981\)](#)); [accord](#)  
24 [Forsyth, 114 F.3d at 1474](#).

25  
26 IT IS SO ORDERED.

27 **Dated: January 27, 2009**

**/s/ Dennis L. Beck**  
28 UNITED STATES MAGISTRATE JUDGE