



1 conclusory statements, do not suffice.” [Ashcroft v. Iqbal, 129 S.Ct. 1937, 1949 \(2009\)](#) (citing  
2 [Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 127 S.Ct. 1955, 1964-65 \(2007\)](#)). Plaintiff  
3 must set forth “sufficient factual matter, accepted as true, to ‘state a claim that is plausible on its  
4 face.’” [Iqbal, 129 S.Ct. at 1949](#) (quoting [Twombly, 550 U.S. at 555](#)). While factual allegations  
5 are accepted as true, legal conclusion are not. [Id. at 1949](#).

6 In reviewing a complaint under this standard, the Court must accept as true the allegations  
7 of the complaint in question, [Hospital Bldg. Co. v. Trustees of Rex Hospital, 425 U.S. 738, 740](#)  
8 [\(1976\)](#), construe the pro se pleadings liberally in the light most favorable to the [Plaintiff, Resnick](#)  
9 [v. Hayes, 213 F.3d 443, 447 \(9th Cir. 2000\)](#), and resolve all doubts in the Plaintiff’s favor,  
10 [Jenkins v. McKeithen, 395 U.S. 411, 421 \(1969\)](#).

11 B. Plaintiff’s Complaint

12 In his complaint, Plaintiff, a disabled veteran, alleges that Harvard Park in the City of  
13 Lindsay is not accessible to the handicapped. Specifically, Plaintiff alleges that a rodeo was held  
14 at Harvard Park on September 20, 2009, and that he did not buy a ticket to the rodeo because he  
15 knew the park was not handicapped accessible. Plaintiff notes that he filed a Request for a  
16 Temporary Restraining Order to prevent the rodeo from occurring but the request was denied by  
17 this court. Plaintiff does not allege any law violations but merely requests that his complaint  
18 against the City of Lindsay be granted. Plaintiff requests monetary damages in an amount that  
19 the court deems appropriate.

20 C. Discussion

21 As a preliminary matter, the court notes that Plaintiff already has an ongoing case against  
22 the City of Lindsay in which he has set forth a cognizable claim that Harvard Park is not  
23 accessible to the handicapped. [Daubert v. City of Lindsay, 09-cv- 1270 AWI GSA](#). Plaintiff  
24 filed a Motion for a Temporary Restraining Order in that case on September 11, 2009, requesting  
25 that the rodeo be cancelled. This motion was denied on September 15, 2009.

26 In the instant complaint, Plaintiff does not make any specific factual allegations, nor does  
27 he cite to any violation of federal or state law. He merely requests that this court grant him relief  
28

1 because the park is not accessible to the handicapped, and as a result, he did not buy a ticket to  
2 the rodeo.

3 Plaintiff is advised that the complaint is insufficient because it fails to comply with [Fed.](#)  
4 [R. Civ. P. 8\(a\)\(2\)](#). As previously noted, a complaint is not required to contain detailed factual  
5 allegations but “[t]hreadbare recitals of the elements of a cause of action, supported by mere  
6 conclusory statements, do not suffice.” [Ashcroft v. Iqbal, 129 S.Ct. at 1949 \(2009\)](#). Here,  
7 Plaintiff has not given any details outlining his claim but instead merely requests that the court  
8 grant his complaint without fully explaining what the complaint is, and failing to cite to any  
9 violation of law. The Court would normally give Plaintiff an opportunity to amend the  
10 complaint, however, Plaintiff already has a case pending against the City of Lindsay regarding  
11 the alleged failure of the City to make Harvard Park accessible to the handicapped. Therefore, the  
12 instant complaint is duplicative. Accordingly, the Court recommends that this case be dismissed  
13 without leave to amend.

14 C. Conclusion

15 Accordingly, the Court HEREBY RECOMMENDS that this action be DISMISSED  
16 WITHOUT LEAVE TO AMEND.

17 These findings and recommendations will be submitted to the Honorable Anthony W.  
18 Ishii pursuant to the provisions of [Title 28 U.S.C. § 636\(b\)\(1\)](#). Within thirty (30) days after being  
19 served with these findings and recommendations, Plaintiff may file written objections with the  
20 Court. The document should be captioned "Objections to Magistrate Judge's Findings and  
21 Recommendations." Plaintiff is advised that failure to file objections within the specified time  
22 may waive the right to appeal the District Court's order. [Martinez v. Ylst, 951 F.2d 1153 \(9th](#)  
23 [Cir. 1991\)](#).

24  
25 IT IS SO ORDERED.

26 Dated: November 5, 2009

27 /s/ Gary S. Austin  
28 UNITED STATES MAGISTRATE JUDGE