



1 is untrue, or the action or appeal is “frivolous, malicious or fails to state a claim on which relief may  
2 be granted; or . . . seeks monetary relief against a defendant who is immune from such relief.” 28  
3 U.S.C. 1915(e)(2). In addition, the Court may dismiss an action *sua sponte* if it lacks jurisdiction over  
4 the matter. *Fielder v. Clark*, 714 F.2d 77, 78-79 (9th Cir. 1983).

### 5 **III. Pleading Standards**

6 General rules for pleading complaints are governed by the Federal Rules of Civil Procedure. A  
7 pleading stating a claim for relief must include a statement affirming the court’s jurisdiction, “a short  
8 and plain statement of the claim showing the pleader is entitled to relief; and . . . a demand for the  
9 relief sought, which may include relief in the alternative or different types of relief.” Fed. R. Civ. P.  
10 8(a). The Federal Rules adopt a flexible pleading policy, and *pro se* pleadings are held to “less  
11 stringent standards” than pleadings drafted by attorneys. *Haines v. Kerner*, 404 U.S. 519, 521-21  
12 (1972).

13 A complaint must give fair notice and state the elements of the plaintiff’s claim in a plain and  
14 succinct manner. *Jones v. Cmty Redevelopment Agency*, 733 F.2d 646, 649 (9th Cir. 1984). The  
15 purpose of the complaint is to give the defendant fair notice of the claims against him, and the grounds  
16 upon which the complaint stands. *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 512 (2002). The  
17 Supreme Court noted,

18 Rule 8 does not require detailed factual allegations, but it demands more than an  
19 unadorned, the-defendant-unlawfully-harmed-me unlawfully accusation. A pleading  
20 that offers labels and conclusions or a formulaic recitation of the elements of a cause of  
21 action will not do. Nor does a complaint suffice if it tenders naked assertions devoid of  
further factual enhancement.

22 *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009) (internal quotation marks and citations omitted).

23 Conclusory and vague allegations do not support a cause of action. *Ivey v. Board of Regents*, 673  
24 F.2d 266, 268 (9th Cir. 1982). The Court clarified further,

25 [A] complaint must contain sufficient factual matter, accepted as true, to “state a claim  
26 to relief that is plausible on its face.” [Citation]. A claim has facial plausibility when  
27 the plaintiff pleads factual content that allows the court to draw the reasonable  
28 inference that the defendant is liable for the misconduct alleged. [Citation]. The  
plausibility standard is not akin to a “probability requirement,” but it asks for more than  
a sheer possibility that a defendant has acted unlawfully. [Citation]. Where a complaint

1 pleads facts that are “merely consistent with” a defendant’s liability, it “stops short of  
2 the line between possibility and plausibility of ‘entitlement to relief.

3 *Iqbal*, 129 S.Ct. at 1449. Where the factual allegations are well-pled, a court should assume their truth  
4 and determine whether the facts would make the plaintiff entitled to relief; conclusions in the pleading  
5 are not entitled to the same assumption of truth. *Id.* If the Court determines that the complaint fails to  
6 state a cognizable claim, the Court may grant leave to amend to the extent that deficiencies of the  
7 complaint can be cured by an amendment. *Lopez v. Smith*, 203 F.3d 1122, 1127-28 (9th Cir. 2000).

8 A. Jurisdiction

9 Construed liberally, Plaintiff appears to be seeking review of a decision by the Commissioner  
10 of Social Security denying disability benefits. The Court would have jurisdiction pursuant to 42  
11 U.S.C. § 405(g), which provides in relevant part:

12 Any individual, after any final decision of the Commissioner made after a hearing to  
13 which he was a party, irrespective of the amount in controversy, may obtain a review of  
14 such decision by a civil action commenced within sixty days after the mailing to him of  
15 such decision or within such further time as the Commissioner may allow. Such action  
16 shall be brought in the district court of the United States for the judicial district in  
17 which the plaintiff resides, or has his principal place of business . . . The court shall  
have power to enter, upon the pleadings and transcript of the record, a judgment  
affirming, modifying, or reversing the decision of the Commissioner of Social Security,  
with or without remanding the cause for a rehearing.

18 *Id.* Except as provided by statute, “[n]o findings of fact or decision of the Commissioner shall be  
19 reviewed by any person, tribunal, or governmental agency.” 42 U.S.C. § 405(h). The Supreme Court  
20 noted that the purpose of the legislation was “to forestall repetitive or belated litigation of stale  
21 eligibility claims.” *Califano v. Sanders*, 430 U.S. 99, 108 (1977).

22 Here, Plaintiff failed to provide any facts upon which the Court’s jurisdiction depends.  
23 Notably, the documents filed by Plaintiff were a sample complaint explaining how a pro se plaintiff  
24 may file a document, the civil cover sheet, and proofs of service. Within these documents, Plaintiff  
25 has not alleged that a final administrative decision was made in her case; she has not identified the  
26 type of the administrative proceeding, nor has she provided the date of the decision or the date upon  
27 which notice of the decision was mailed for the Court to determine whether Plaintiff’s request for  
28 judicial review is timely.

1            B. Requirements of the Local Rules

2            The Local Rules of the United States District Court, Eastern District of California, supplement  
3 the Federal Rules. Under Local Rule 206, the following information must be included in a complaint:

4            (1) In actions involving claims for retirement, survivors, disability, health insurance and  
5 black lung benefits, the last four digits of the social security number of the worker on  
6 whose wage record the application for benefits was filed (who may or may not be the  
7 plaintiff); or

8            (2) In actions involving claims for supplemental security income benefits, the last four  
9 digits of social security number of the plaintiff.

10          LR 206. Plaintiff's complaint indicates that she seeks benefits that come within this rule. Therefore,  
11 Plaintiff's complaint was not in compliance with the Local Rules, as it should contain the last four  
12 digits of her Social Security number.

13          **IV. Leave to Amend the Complaint**

14            If the Court determines that a complaint fails to state a claim, leave to amend should be granted  
15 to the extent that the deficiencies of the complaint can be cured by amendment. *Lopez v. Smith*, 203  
16 F.3d 1122, 1130 (9th Cir. 2000) (en banc). A complaint, or a portion thereof, should only be  
17 dismissed for failure to state a claim upon which relief may be granted if it appears beyond doubt that  
18 the Plaintiff can prove no set of facts, consistent with the allegations, in support of the claim or claims  
19 that would entitle him to relief. *See Hishon v. King & Spalding*, 467 U.S. 69, 73 (1984), citing *Conley*  
20 *v. Gibson*, 355 U.S. 41, 45-46 (1957); see also *Palmer v. Roosevelt Lake Log Owners' Ass'n., Inc.*,  
21 651 F.2d 1289, 1294 (9th Cir. 1981). Dismissal of a *pro se* complaint for failure to state a claim is  
22 proper only where it is obvious that the Plaintiff cannot prevail on the facts that he has alleged and that  
23 an opportunity to amend would be futile. *Lopez*, 203 F.3d at 1128.

24            Here the Court cannot find with certainty that Plaintiff cannot allege facts, consistent with  
25 allegations, in support of the claim or claims that would entitle her to relief. Plaintiff states her cause  
26 of action is brought pursuant to 42 U.S.C. § 405(g) because her disability benefits were denied. (Doc.  
27 1-1). Thus, it appears Plaintiff seeks judicial review of a decision denying him benefits, but it is not  
28 clear whether the Court has jurisdiction over the matter. The Court will grant Plaintiff leave to amend

1 the complaint to cure the deficiencies of this complaint by stating the necessary information. Failure  
2 to cure the deficiencies will result in a recommendation that the matter be dismissed.

3 Plaintiff is informed that the Court cannot refer to a prior pleading in order to make her  
4 amended complaint complete. Local Rule 220 requires that an amended complaint be complete in  
5 itself without reference to any prior pleading. As a general rule, an amended complaint supersedes the  
6 original complaint. *See Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir. 1967). Once Plaintiff files an  
7 amended complaint, the original pleading no longer serves any function in the case.

8 The amended complaint must bear the docket number assigned this case and must be labeled  
9 "First Amended Complaint." Failure to file an amended complaint in accordance with this order will  
10 be considered to be a failure to comply with an order of the Court pursuant to Local Rule 110 and will  
11 result in dismissal of this action.

12 Accordingly, **IT IS HEREBY ORDERED:**

- 13 1. Plaintiff's Motions to Proceed In Forma Pauperis (Doc. 2-3) are **GRANTED**;
- 14 2. Plaintiff's complaint **IS DISMISSED** with leave to amend; and
- 15 3. Plaintiff is **GRANTED** twenty-one (21) days from the date of service of this order to  
16 file an amended complaint that complies with the requirements of the pertinent substantive law, the  
17 Federal Rules of Civil Procedure, and the Local Rules of Practice.

18  
19  
20 IT IS SO ORDERED.

21 Dated: June 15, 2012

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE