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

BEVERLY JEAN GIBSON, ) Case No.: 1:12-cv-00945 - JLT  
 )  
Plaintiff, ) ORDER DIRECTING CLERK TO ISSUE  
 ) SUMMONS  
v. )  
 )  
COMMISSIONER OF SOCIAL SECURITY, ) ORDER DIRECTING UNITED STATES  
 ) MARSHAL FOR SERVICE OF COMPLAINT  
Defendant. )  
 )

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Beverly Jean Gibson (“Plaintiff”) is proceeding *pro se* with an action seeking judicial review of a determination of the Social Security Administration. The Court granted Plaintiffs’ motion to proceed *in forma pauperis* and dismissed the complaint with leave to amend on June 15, 2012. (Doc. 6). On June 28, 2012, Plaintiff filed her Amended Complaint (Doc. 7), which is now before the Court for screening.

**I. SCREENING REQUIREMENT**

When an individual seeks to proceed *in forma pauperis*, the Court is required to review the complaint and shall dismiss a complaint, or portion of the complaint, if it is “frivolous, malicious or 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. § 1915A(b); 28 U.S.C. § 1915(e)(2). Accordingly, the Court must screen Plaintiffs’ Amended Complaint to ensure Plaintiff states a cognizable claim.

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1 **II. PLEADING STANDARDS**

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

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

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

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

19 Conclusory and vague allegations do not support a cause of action. *Ivey v. Board of Regents*, 673 F.2d  
20 266, 268 (9th Cir. 1982). The Court clarified further,

21 [A] complaint must contain sufficient factual matter, accepted as true, to “state a claim  
22 to relief that is plausible on its face.” [Citation]. A claim has facial plausibility when the  
23 plaintiff pleads factual content that allows the court to draw the reasonable inference  
24 that the defendant is liable for the misconduct alleged. [Citation]. The plausibility  
25 standard is not akin to a “probability requirement,” but it asks for more than a sheer  
26 possibility that a defendant has acted unlawfully. [Citation]. Where a complaint pleads  
27 facts that are “merely consistent with” a defendant’s liability, it “stops short of the line  
28 between possibility and plausibility of ‘entitlement to relief.’

29 *Iqbal*, 129 S. Ct. at 1949 (citations omitted). When factual allegations are well-pled, a court should  
30 assume their truth and determine whether the facts would make the plaintiff entitled to relief;  
31 conclusions in the pleading are not entitled to the same assumption of truth. *Id.* The Court may grant

1 leave to amend a complaint to the extent deficiencies of the complaint can be cured by an amendment.  
2 *Lopez v. Smith*, 203 F.3d 1122, 1127-28 (9th Cir. 2000) (en banc).

3 **III. DISCUSSION AND ANALYSIS**

4 Here, Plaintiff’s Amended Complaint indicates her application and appeal for Social Security  
5 benefits have been denied, and she seeks review of the decision by the Commissioner of Social  
6 Security denying benefits. (Doc. 7 at 2). The Court has jurisdiction over such claims pursuant to 42  
7 U.S.C. § 405(g), which provides in relevant part:

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

17 *Id.* Except as provided by statute, “[n]o findings of fact or decision of the Commissioner shall be  
18 reviewed by any person, tribunal, or governmental agency.” 42 U.S.C. § 405(h).

19 Plaintiff attached the Notice of Appeals Council to her Amended Complaint. (Doc. 7 at 11).  
20 The Notice indicates the Appeals Council denied her request for review on April 12, 2012, at which  
21 time the decision of the administrative law judge became the decision of the Commissioner. *Id.*  
22 Accordingly, Plaintiff requested timely review of the decision to deny benefits, and the Court has  
23 jurisdiction over the matter.

24 **IV. CONCLUSION AND ORDER**

25 Plaintiff’s complaint states a cognizable claim for review of the administrative decision  
26 denying Social Security benefits. Based upon the foregoing, **IT IS HEREBY ORDERED:**

- 27 1. The Clerk of Court is DIRECTED to issue summons as to the defendant, Commissioner  
28 of Social Security;
2. The Clerk of Court is DIRECTED to issue and serve Plaintiff with Social Security Case  
Documents, including the Scheduling Order, Order regarding Consent, the Consent  
Form, and USM-285 Forms;

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- 3. Plaintiff SHALL complete and submit to the Court the “Notice of Submission of Documents in Social Security Appeal Form;” and
- 4. The U.S. Marshal is DIRECTED to serve a copy of the Amended Complaint (Doc. 7), summons, and this order upon the defendant as directed by Plaintiff in the USM Forms.

IT IS SO ORDERED.

Dated: July 2, 2012

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE