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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

MICHANN DENISE MEADOWS,	)	1:12-cv-01115-LJO-BAM (PC)
	)	
Plaintiff,	)	ORDER DISMISSING COMPLAINT WITH
	)	LEAVE TO AMEND (ECF No. 1)
v.	)	
	)	THIRTY-DAY DEADLINE
LYDIA HENSE, et al.,	)	
	)	
Defendants.	)	
	)	
	)	

**I. Screening Requirement and Standard**

Plaintiff Michann Denise Meadows (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to [42 U.S.C. § 1983](#). Plaintiff filed her complaint on June 20, 2012, and the matter was transferred to this Court on July 10, 2012. Plaintiff’s complaint is currently before the Court for screening.

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity and/or against an officer or employee of a governmental entity. [28 U.S.C. § 1915A\(a\)](#). Plaintiff’s complaint, or any portion thereof, is subject to dismissal if it is frivolous or malicious, if it fails to state a claim upon which relief may be granted, or if it seeks monetary relief from a defendant who is immune from such relief. [28 U.S.C. § 1915A\(b\)\(1\), \(2\)](#); [28 U.S.C. § 1915\(e\)\(2\)\(B\)\(ii\)](#).

A complaint must contain “a short and plain statement of the claim showing that the pleader is entitled to relief. . . .” [Fed. R. Civ. P. 8\(a\)\(2\)](#). Detailed factual allegations are not

1 required, but “[t]hreadbare recitals of the elements of a cause of action, supported by mere  
2 conclusory statements, do not suffice.” [Ashcroft v. Iqbal, 556 U.S. 662, 678, 129 S.Ct. 1937,](#)  
3 [1949](#) (2009) (citing [Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 127 S.Ct. 1955, 1964-65](#)  
4 (2007)). While a plaintiff’s allegations are taken as true, courts “are not required to indulge  
5 unwarranted inferences.” [Doe I v. Wal-Mart Stores, Inc., 572 F.3d 677, 681 \(9th Cir. 2009\)](#)  
6 (internal quotation marks and citation omitted).

7 To survive screening, Plaintiff’s claims must be facially plausible, which requires  
8 sufficient factual detail to allow the Court to reasonably infer that each named defendant is liable  
9 for the misconduct alleged. [Iqbal, 556 U.S. at 678, 129 S.Ct. at 1949](#) (quotation marks omitted);  
10 [Moss v. United States Secret Service, 572 F.3d 962, 969 \(9th Cir. 2009\)](#). The sheer possibility  
11 that a defendant acted unlawfully is not sufficient, and mere consistency with liability falls short  
12 of satisfying the plausibility standard. [Iqbal, 556 U.S. at 678, 129 S.Ct. at 1949](#) (quotation marks  
13 omitted); [Moss, 572 F.3d at 969](#).

## 14 **II. Plaintiff’s Allegations**

15 Plaintiff is currently housed at the Central California Women’s Facility located in  
16 Chowchilla, California. At the time Plaintiff filed her complaint, she was housed at Valley State  
17 Prison for Women. Plaintiff names (1) Lydia C. Hense, Warden at Central California Women’s  
18 Facility, (2) Walter Miller, Warden at Valley State Prison for Women, and (3) Debra Herndon,  
19 Associate Director, Female Offender Program and Services Division of Adult Institutions as  
20 defendants.

21 Plaintiff alleges as follows: On October 27, 2011, Plaintiff was discriminated against and  
22 transferred to Valley State Prison for Women because she submitted a medical civil suit against  
23 the OB GYN at Central California Women’s Facility (“CCWF”). CCWF’s Warden Hense  
24 contacted Valley State Prison’s Warden and “came up with an agreement that [Plaintiff] was  
25 made aware of on Feb. 2nd, 2012 that claimed it was in [Plaintiff’s] best interests and the  
26 institution.” (ECF No. 1, p. 3.) Plaintiff contends that other inmates have active medical civil  
27 suits in the court and were not transferred.

1 Plaintiff claims that with both wardens and Debra Herndon signing off on the transfer the  
2 agreement clearly shows that Plaintiff’s health and program “were not a factor at a Level 4  
3 inmate and just going to the Board of Prison Terms.” (ECF No. 1, p. 3.) Plaintiff was under  
4 duress and her mental and emotional state unbalanced. The adverse effects of the transfer caused  
5 her extreme stress, mental anguish, health issues and total disruption of her program. Plaintiff  
6 was due to graduate with an AA degree from Feather River College Program.

7 Plaintiff seeks monetary damages and a transfer back to CCWF.

### 8 **III. Deficiencies of the Complaint**

9 Due to its conclusory nature, Plaintiff’s complaint will be dismissed with leave to amend.  
10 To assist Plaintiff in amending her complaint, Plaintiff is provided with the applicable pleading  
11 and legal standards.

#### 12 **A. Federal Rule of Civil Procedure 8**

13 Pursuant to [Federal Rule of Civil Procedure 8](#), a complaint must contain “a short and  
14 plain statement of the claim showing that the pleader is entitled to relief.” [Fed. R. Civ. P. 8\(a\)](#).  
15 As noted above, detailed factual allegations are not required, but “[t]hreadbare recitals of the  
16 elements of a cause of action, supported by mere conclusory statements, do not suffice.” [Iqbal](#),  
17 [556 U.S. at 678](#) (citation omitted). Plaintiff must set forth “sufficient factual matter, accepted as  
18 true, to ‘state a claim to relief that is plausible on its face.’” [Iqbal](#), [556 U.S. at 678](#) (quoting  
19 [Twombly](#), [550 U.S. at 555](#)). While factual allegations are accepted as true, legal conclusions are  
20 not. [Id.](#); see also [Twombly](#), [550 U.S. at 556–557](#); [Moss](#), [572 F.3d at 969](#).

21 Plaintiff’s complaint is conclusory and lacks sufficient factual allegations to state a  
22 cognizable claim. Although [Rule 8](#) demands a short and plain statement, Plaintiff’s complaint  
23 must include enough facts to support a claim.

#### 24 **B. First Amendment Retaliation**

25 Plaintiff claims that Defendants transferred her in retaliation for filing a civil lawsuit  
26 against an OB GYN at CCWF.

27 Within the prison context, a viable claim of First Amendment retaliation consists of five  
28 elements: “(1) An assertion that a state actor took some adverse action against an inmate (2)

1 because of (3) that prisoner's protected conduct, and that such action (4) chilled the inmate's  
2 exercise of his First Amendment rights, and (5) the action did not reasonably advance a  
3 legitimate correctional goal." [Rhodes v. Robinson, 408 F.3d 559, 567 \(9th Cir. 2005\)](#); accord  
4 [Watison v. Carter, 668 F.3d 1108, 1114 \(9th Cir. 2012\)](#); [Brodheim v. Cry, 584 F.3d 1262, 1269](#)  
5 [\(9th Cir. 2009\)](#).

6 A plaintiff suing for retaliation under [section 1983](#) must allege that "he was retaliated  
7 against for exercising his constitutional rights and that the retaliatory action does not advance  
8 legitimate penological goals, such as preserving institutional order and discipline." [Barnett v.](#)  
9 [Centoni, 31 F.3d 813, 816 \(9th Cir. 1994\)](#). The plaintiff does not need to show actual inhibited  
10 or suppressed speech, but that there was a chilling effect upon his speech. [Rhodes, 408 F.3d at](#)  
11 [569](#). The burden is on the plaintiff to plead and prove the absence of any legitimate correctional  
12 goals for the alleged conduct. [Pratt v. Rowland, 65 F.3d 802, 806 \(9th Cir. 1995\)](#).

13 Here, Plaintiff has failed to allege sufficient facts to demonstrate that she was retaliated  
14 against for filing a lawsuit. Plaintiff has merely stated conclusions. Further, Plaintiff has failed  
15 to demonstrate the absence of any legitimate correctional goal for the alleged conduct. Rather,  
16 Plaintiff has alleged that defendants believed a transfer was in her best interests and in the best  
17 interests of the institution. It also is evident from the docket in this case that Plaintiff has been  
18 transferred back to CCFW.

### 19 **C. Injunctive Relief**

20 Plaintiff requests a court order that her transfer be reversed and that she be returned to  
21 CCWF with no reprisals. Plaintiff's request is a form of injunctive relief and is now moot. As  
22 stated, according to the Court's records, Plaintiff is currently housed at CCWF.

### 23 **IV. Conclusion and Order**

24 Plaintiff's complaint fails to state a cognizable claim upon which relief may be granted  
25 under [section 1983](#). However, the Court will provide Plaintiff with the opportunity to file an  
26 amended complaint. [Lopez v. Smith, 203 F.3d 1122, 1130 \(9th Cir. 2000\)](#).

27 Plaintiff's amended complaint should be brief, [Fed. R. Civ. P. 8\(a\)](#), but must state what  
28 each named defendant did that led to the deprivation of Plaintiff's constitutional or other federal

1 rights. [Iqbal, 556 U.S. at 676](#). Plaintiff also must set forth “sufficient factual matter . . . to ‘state  
2 a claim that is plausible on its face.’” [Id. at 678](#). (quoting [Twombly, 550 U.S. at 555](#)). Plaintiff  
3 should note that although she has been given the opportunity to amend, it is not for the purpose  
4 of adding new, unrelated claims.

5 Finally, Plaintiff is advised that pursuant to Local Rule 220, the amended complaint must  
6 be “complete in itself without reference to the prior or superseded pleading.” Local Rule 220.  
7 Once an amended complaint is filed, the original complaint no longer serves any function in the  
8 case. The amended complaint should be clearly and boldly titled “First Amended Complaint,”  
9 refer to the appropriate case number, and be an original signed under penalty of perjury.

10 Based on the foregoing, it is HEREBY ORDERED that:

- 11 1. The Clerk’s Office shall send Plaintiff a complaint form;
- 12 2. Plaintiff’s complaint is dismissed for failure to state a claim with leave to file a  
13 first amended complaint within thirty (30) days from the date of service of this order; and
- 14 3. **If Plaintiff fails to comply with this order, the Court will dismiss this action**  
15 **for failure to obey a court order and for failure to state a claim.**

16  
17 IT IS SO ORDERED.

18 Dated: October 8, 2013

19 /s/ Barbara A. McAuliffe  
20 UNITED STATES MAGISTRATE JUDGE