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

SHOA ESHRAGHI,	)	Case No.: 1:13-cv-00936 - JLT
	)	
Plaintiff,	)	ORDER GRANTING PLAINTIFF’S MOTIONS TO
	)	PROCEED INFORMA PAUPERIS
v.	)	
	)	(Docs. 3,4)
CAROLYN W. COLVIN, Acting Commissioner of Social Security,	)	ORDER DIRECTING CLERK TO ISSUE
	)	SUMMONS AND SOCIAL SECURITY CASE
Defendant.	)	DOCUMENTS
	)	

Shoa Eshraghi (“Plaintiff”) seeks to proceed *in forma pauperis* with an action seeking judicial review of a determination of the Social Security Administration denying his application for benefits. Pending before the Court are the complaint (Doc. 2) and motions to proceed *in forma pauperis* (Docs. 3 and 4) filed by Plaintiff on June 19, 2013.

**I. Proceeding in forma pauperis**

The Court may authorize the commencement of an action without prepayment of fees “but a person who submits an affidavit that includes a statement of all assets such person . . . possesses [and] that the person is unable to pay such fees or give security therefor.” 28 U.S.C. § 1915(a). The Court reviewed the applications and determined Plaintiff satisfies the requirements of 28 U.S.C. § 1915(a). Therefore, Plaintiff’s motions to proceed *in forma pauperis* are **GRANTED**.

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1 **II. Screening Requirement**

2 When an individual seeks to proceed *in forma pauperis*, the Court is required to review the  
3 complaint and shall dismiss a complaint, or portion of the complaint, if it is “frivolous, malicious or  
4 fails to state a claim upon which relief may be granted; or . . . seeks monetary relief from a defendant  
5 who is immune from such relief.” 28 U.S.C. § 1915A(b); 28 U.S.C. § 1915(e)(2). A claim is  
6 frivolous “when the facts alleged rise to the level of the irrational or the wholly incredible, whether or  
7 not there are judicially noticeable facts available to contradict them.” *Denton v. Hernandez*, 504 U.S.  
8 25, 32-33 (1992).

9 **III. Pleading Standards**

10 General rules for pleading complaints are governed by the Federal Rules of Civil Procedure. A  
11 pleading must include a statement affirming the court’s jurisdiction, “a short and plain statement of the  
12 claim showing the pleader is entitled to relief; and . . . a demand for the relief sought, which may  
13 include relief in the alternative or different types of relief.” Fed. R. Civ. P. 8(a).

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

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

23 *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal quotation marks and citations omitted). Vague and  
24 conclusory allegations do not support a cause of action. *Ivey v. Board of Regents*, 673 F.2d 266, 268  
25 (9th Cir. 1982). The Court clarified further,

26 [A] complaint must contain sufficient factual matter, accepted as true, to “state a claim  
27 to relief that is plausible on its face.” [Citation]. A claim has facial plausibility when the  
28 plaintiff pleads factual content that allows the court to draw the reasonable 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

1 possibility that a defendant has acted unlawfully. [Citation]. Where a complaint pleads  
2 facts that are “merely consistent with” a defendant’s liability, it “stops short of the line  
3 *Iqbal*, 556 U.S. at 678 (citations omitted). When factual allegations are well-pled, a court should  
4 assume their truth and determine whether the facts would make the plaintiff entitled to relief;  
5 conclusions in the pleading are not entitled to the same assumption of truth. *Id.* The Court may grant  
6 leave to amend a complaint to the extent deficiencies of the complaint can be cured by an amendment.  
7 *Lopez v. Smith*, 203 F.3d 1122, 1127-28 (9th Cir. 2000) (en banc).

#### 8 **IV. Discussion and Analysis**

9 Plaintiff seeks review of a decision by the Commissioner of Social Security denying disability  
10 benefits. (Doc. 2). The Court would have jurisdiction pursuant to 42 U.S.C. § 405(g), which provides  
11 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**  
15 **of such decision or within such further time as the Commissioner may allow.** Such  
16 action shall be brought in the district court of the United States for the judicial district  
17 in which the plaintiff resides, or has his principal place of business . . . The court shall  
18 have power to enter, upon the pleadings and transcript of the record, a judgment  
19 affirming, modifying, or reversing the decision of the Commissioner of Social Security,  
20 with or without remanding the cause for a rehearing.

21 *Id.* (emphasis added). Except as provided by statute, “[n]o findings of fact or decision of the  
22 Commissioner shall be reviewed by any person, tribunal, or governmental agency.” 42 U.S.C. § 405(h).  
23 These regulations “operate as a statute of limitations setting the time period in which a claimant may  
24 appeal a final decision of the Commissioner.” *Berrigan v. Astrue*, 2010 U.S. Dist. LEXIS 115390, at  
25 \*4-5 (E.D. Cal. Oct. 29, 2010) (citing *Bowen v. City of New York*, 476 U.S. 467, 479 (1986); *Matthews*  
26 *v. Eldridge*, 424 U.S. 319, 328 n. 9 (1976)). The time limit is a condition on the waiver of sovereign  
27 immunity, and it must be strictly construed. *Id.*

28 According to Plaintiff, the Appeals Council denied his request for review of the decision  
rendered by the administrative law judge on April 19, 2013, at which time the decision became the  
final decision of the Commissioner. (Doc. 2 at 2). Therefore, Plaintiff seeks timely review of the  
decision to deny benefits, and the Court has jurisdiction over the matter.

1 **V. Conclusion and Order**

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

- 4 1. Plaintiff's motions to proceed *in forma pauperis* (Doc. 3, 4) are **GRANTED**;
- 5 2. The Clerk of Court is DIRECTED to issue summons as to the defendant, Carolyn  
6 Colvin, Acting Commissioner of Social Security;
- 7 3. The Clerk of Court is DIRECTED to issue and serve Plaintiff with Social Security Case  
8 Documents, including the Scheduling Order, Order regarding Consent, the Consent  
9 Form, and USM-285 Forms; and
- 10 4. Plaintiff SHALL complete and submit to the Court the "Notice of Submission of  
11 Documents in Social Security Appeal Form."

12  
13 IT IS SO ORDERED.

14 Dated: June 20, 2013

/s/ Jennifer L. Thurston  
15 UNITED STATES MAGISTRATE JUDGE