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

NAYOMY MENDOZA DE NEPITA,	)	Case No.: 1:13-cv-00962 - JLT
	)	
Plaintiff,	)	ORDER GRANTING MOTION TO PROCEED
	)	INFORMA PAUPERIS
v.	)	
	)	(Doc. 2)
COMMISSION OF SOCIAL SECURITY,	)	
	)	
Defendant.	)	ORDER DIRECTING CLERK TO ISSUE
	)	SUMMONS AND NEW CASE DOCUMENTS

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On June 24, 2013, Ana Cleveland-Hayes (“Plaintiff”) initiated this action by filing a complaint for judicial review of a determination of the Social Security Administration denying her application for benefits. (Doc. 1). In addition, Plaintiff filed a motion to proceed *in forma pauperis*. (Doc. 2). For the following reasons, Plaintiff’s motion to proceed *in forma pauperis* is **GRANTED** and the Clerk is **DIRECTED** to issue the Summons and new case documents.

**I. MOTION TO PROCEED 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 has reviewed the application and determined it satisfies the requirements of 28 U.S.C. § 1915(a). Therefore, Plaintiff’s motion to proceed *in forma pauperis* is **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 Plaintiff’s claim  
6 is frivolous “when the facts alleged rise to the level of the irrational or the wholly incredible, whether  
7 or not there are judicially noticeable facts available to contradict them.” *Denton v. Hernandez*, 504  
8 U.S. 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: “A pleading that offers labels and conclusions or a formulaic recitation of the  
19 elements of a cause of action will not do. Nor does a complaint suffice if it tenders naked assertions  
20 devoid of further factual enhancement.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal quotation  
21 marks, citations omitted). When factual allegations are well-pled, a court should assume their truth and  
22 determine whether the facts would make the plaintiff entitled to relief; conclusions in the pleading are  
23 not entitled to the same assumption of truth. *Id.*

24 **IV. DISCUSSION AND ANALYSIS**

25 Here, Plaintiff’s complaint indicates her application and appeal for Social Security benefits  
26 have been denied, and she seeks review of the decision by the Commissioner of Social Security  
27 denying benefits. (Doc. 1 at 1-2). The Court has jurisdiction over such claims pursuant to 42 U.S.C.  
28 § 405(g), which provides in relevant part:

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Any individual, after any final decision of the Commissioner made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of such decision or within such further time as the Commissioner may allow. Such action shall be brought in the district court of the United States for the judicial district in 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.

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

The Appeals Council denied Plaintiff’s request for review of the decision of an administrative law judge on March 1, 2013. (Doc. 1 at 3). Plaintiff requested an extension of time to file a civil action, which was granted on May 23, 2013. *Id.* Accordingly, Plaintiff seeks timely review of the decision to deny benefits, and the Court has jurisdiction over the matter.

**V. CONCLUSION AND ORDER**

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

1. Plaintiff’s motion to proceed *in forma pauperis* (Doc. 2) is **GRANTED**;
2. The Clerk of Court is **DIRECTED** to issue summons as to the defendant, Commissioner of Social Security;
3. 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; and
4. Plaintiff **SHALL** complete and submit to the Court the “Notice of Submission of Documents in Social Security Appeal Form.”

IT IS SO ORDERED.

Dated: June 28, 2013

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE