



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 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, 678-79 (2009) (internal quotation marks and citations omitted).

24 Conclusory and vague allegations do not support a cause of action. *Ivey v. Board of Regents*, 673 F.2d  
25 266, 268 (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 679 (citations omitted). When factual allegations are well-pled, a court should  
4 assume the truth and determine whether the facts would make the plaintiff entitled to relief; conclusions  
5 in the pleading are not entitled to the same assumption of truth. *Id.* The Court may grant leave to  
6 amend a complaint to the extent deficiencies of the complaint can be cured by amendment. *Lopez v.*  
7 *Smith*, 203 F.3d 1122, 1127-28 (9th Cir. 2000) (en banc).

8 **IV. DISCUSSION AND ANALYSIS**

9 Here, Plaintiff’s complaint indicates his application and appeal for Social Security benefits  
10 have been denied, and he seeks review of the decision by the Commissioner of Social Security to deny  
11 benefits. (Doc. 1 at 1-2). The Court has jurisdiction over such claims pursuant to 42 U.S.C. §  
12 405(g), which provides in relevant part:

13 Any individual, after any final decision of the Commissioner made after a hearing to  
14 which he was a party, irrespective of the amount in controversy, may obtain a review of  
15 such decision by a civil action commenced within sixty days after the mailing to him of  
16 such decision or within such further time as the Commissioner may allow. Such action  
17 shall be brought in the district court of the United States for the judicial district in  
18 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.

19 *Id.* Except as provided by statute, “[n]o findings of fact or decision of the Commissioner shall be  
20 reviewed by any person, tribunal, or governmental agency.” 42 U.S.C. § 405(h). The Supreme Court  
21 noted the purpose of the legislation was “to forestall repetitive or belated litigation of stale eligibility  
22 claims.” *Califano v. Sanders*, 430 U.S. 99, 108 (1977). Plaintiff asserts the Appeals Council denied  
23 his request for review on July 17, 2013, at which time the decision of the administrative law judge  
24 became the decision of the Commissioner. (Doc. 1 at 2). Because Plaintiff seeks timely judicial  
25 review, the Court has jurisdiction over the matter pursuant to 42 U.S.C. § 405(g).

26 **V. CONCLUSION AND ORDER**

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

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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, Carolyn W. Colvin, Acting 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. The U.S. Marshal is DIRECTED to serve a copy of the complaint, summons, and this order upon the defendant as directed by Plaintiff in the USM Forms.

IT IS SO ORDERED.

Dated: September 23, 2013

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE