

1 **DISCUSSION**

2 A. Screening Standard

3 Pursuant to 28 U.S.C. § 1915(e)(2), the court must conduct an initial review of the
4 complaint for sufficiency to state a claim. The court must dismiss a complaint or portion thereof
5 if the court determines that the action is legally “frivolous or malicious,” fails to state a claim
6 upon which relief may be granted, or seeks monetary relief from a defendant who is immune from
7 such relief. 28 U.S.C. § 1915(e)(2). If the court determines that the complaint fails to state a
8 claim, leave to amend may be granted to the extent that the deficiencies of the complaint can be
9 cured by amendment.
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11 A complaint must contain “a short and plain statement of the claim showing that the
12 pleader is entitled to relief” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are not
13 required, but “[t]hreadbare recitals of the elements of a cause of action, supported by mere
14 conclusory statements, do not suffice.” *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009) (citing
15 *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555, 127 S.Ct. 1955, 1964-65 (2007)). Plaintiff
16 must set forth “sufficient factual matter, accepted as true, to ‘state a claim that is plausible on its
17 face.’” *Ashcroft v. Iqbal*, 129 S.Ct. at 1949 (quoting *Twombly*, 550 U.S. at 555). While factual
18 allegations are accepted as true, legal conclusion are not. *Id.* at 1949.
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20 A complaint, or portion thereof, should only be dismissed for failure to state a claim upon
21 which relief may be granted if it appears beyond doubt that plaintiff can prove no set of facts in
22 support of the claim or claims that would entitle him to relief. See *Hishon v. King & Spalding*,
23 467 U.S. 69, 73 (1984), citing *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957); see also *Palmer v.*
24 *Roosevelt Lake Log Owners Ass’n*, 651 F.2d 1289, 1294 (9th Cir. 1981). In reviewing a
25 complaint under this standard, the Court must accept the allegations in the complaint as true,
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27 *Hospital Bldg. Co. v. Trustees of Rex Hospital*, 425 U.S. 738, 740 (1976), construe the pro se
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1 pleadings liberally in the light most favorable to the Plaintiff, *Resnick v. Hayes*, 213 F.3d 443,
2 447 (9th Cir. 2000), and resolve all doubts in the Plaintiff’s favor. *Jenkins v. McKeithen*, 395
3 U.S. 411, 421 (1969). Pleadings of pro se plaintiffs “must be held to less stringent standards than
4 formal pleadings drafted by lawyers.” *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010)
5 (holding that pro se complaints should continue to be liberally construed after *Iqbal*).
6 Accordingly, pro se plaintiffs are afforded the benefit of any doubt. *Id.*

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8 B. Plaintiff’s Allegations

9 Plaintiff alleges that Defendant Elizabeth Van Bibber is an insurance agent for
10 Progressive Insurance and that she is defrauding customers out of insurance claims at North
11 Fresno Collision Center, located in Fresno, California. Plaintiff also contends that the Defendant
12 is getting court orders by committing perjury. Plaintiff seeks \$9,000.00 in damages.

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14 C. Analysis

15 Although the allegations in the complaint are unclear, a review of the facts reveal that
16 Plaintiff cannot establish that federal jurisdiction is proper. Federal courts can only adjudicate
17 cases authorized by the United States Constitution and Congress. Generally, this includes cases
18 in which: 1) diversity of citizenship is established (the matter in controversy exceeds \$75,000
19 and is between citizens of different states), 2) a federal question is presented, or 3) the United
20 States is a party. 28 U.S.C. §§ 1331 and 1332; *See also, Kokkonen v. Guardian Life Ins. Co.*, 511
21 U.S. 375 (1994); *Finley v. United States*, 490 U.S. 545, 109 S.Ct. 2003, 2008 (1989). As
22 discussed below, Plaintiff has failed to establish that federal jurisdiction is proper.

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24 1. *No Federal Question Exists and the United States is Not a Party*

25 Plaintiff’s complaint does not state a federal claim. Thus, no federal questions are
26 presented. Similarly, the United States is not a named defendant in this action. Therefore, federal
27 jurisdiction does not exist on these bases.
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1 consider Plaintiff's case. Accordingly, it is ordered that Plaintiff's complaint be DISMISSED
2 WITHOUT LEAVE TO AMEND.

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IT IS SO ORDERED.

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Dated: June 12, 2014

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE

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