



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 state the elements of the plaintiff’s claim in a plain and succinct manner.  
15 *Jones v. Cmty Redevel. Agency*, 733 F.2d 646, 649 (9th Cir. 1984). The purpose of a complaint is to  
16 give the defendant fair notice of the claims against him, and the grounds upon which the complaint  
17 stands. *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 512 (2002). The Supreme Court explained,  
18 Rule 8 does not require detailed factual allegations, but it demands more than an  
19 unadorned, the-defendant-unlawfully-harmed-me accusation. A pleading that offers  
20 labels and conclusions or a formulaic recitation of the elements of a cause of action will  
not do. Nor does a complaint suffice if it tenders naked assertions devoid of further  
factual enhancement.

21 *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009) (internal quotation marks and citations omitted).  
22 Conclusory and vague allegations do not support a cause of action. *Ivey v. Board of Regents*, 673 F.2d  
23 266, 268 (9th Cir. 1982). The Court clarified further,

24 [A] complaint must contain sufficient factual matter, accepted as true, to “state a claim  
25 to relief that is plausible on its face.” [Citation]. A claim has facial plausibility when  
26 the plaintiff pleads factual content that allows the court to draw the reasonable  
27 inference that the defendant is liable for the misconduct alleged. [Citation]. The  
28 plausibility standard is not akin to a “probability requirement,” but it asks for more than  
a sheer possibility that a defendant has acted unlawfully. [Citation]. Where a complaint  
pleads facts that are “merely consistent with” a defendant’s liability, it “stops short of  
the line between possibility and plausibility of ‘entitlement to relief.’”

1 *Iqbal*, 556 U.S. at 679 (citations omitted). When factual allegations are well-pled, a court should  
2 assume the truth and determine whether the facts would make the plaintiff entitled to relief; conclusions  
3 in the pleading are not entitled to the same assumption of truth. *Id.* The Court may grant leave to  
4 amend a complaint to the extent deficiencies of the complaint can be cured by amendment. *Lopez v.*  
5 *Smith*, 203 F.3d 1122, 1127-28 (9th Cir. 2000) (en banc).

#### 6 **IV. DISCUSSION AND ANALYSIS**

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

11 Any individual, after any final decision of the Commissioner made after a hearing to  
12 which he was a party, irrespective of the amount in controversy, may obtain a review of  
13 such decision by a civil action commenced within sixty days after the mailing to him of  
14 such decision or within such further time as the Commissioner may allow. Such action  
15 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.

16 *Id.* Except as provided by statute, “[n]o findings of fact or decision of the Commissioner shall be  
17 reviewed by any person, tribunal, or governmental agency.” 42 U.S.C. § 405(h). The Supreme Court  
18 noted the purpose of the legislation was “to forestall repetitive or belated litigation of stale eligibility  
19 claims.” *Califano v. Sanders*, 430 U.S. 99, 108 (1977). The Appeals Council denied Plaintiff’s request  
20 for review on January 17, 2014, at which time the decision of the administrative law judge became the  
21 decision of the Commissioner. (Doc. 1 at 2.) On May 22, 2014, the Appeals Council granted  
22 Plaintiff’s request for an extension of time to file an action for judicial review. (*Id.*)

#### 23 **V. CONCLUSION AND ORDER**

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

- 26 1. Plaintiff’s motion to proceed *in forma pauperis* (Doc. 2) is **GRANTED**;
- 27 2. The Clerk of Court is **DIRECTED** to issue summons as to the defendant, Commissioner  
28 of Social Security;

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- 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: July 7, 2014

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE