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

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| <p>JACOB RAY CORONADO,</p> <p style="padding-left: 100px;">Plaintiff,</p> <p style="padding-left: 100px;">v.</p> <p>RICHARD E. HUBER, et al.,</p> <p style="padding-left: 100px;">Defendant.</p> | <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> | <p>Case No.: 1:14-cv-01455 - --- - JLT</p> <p>ORDER DIRECTING THE CLERK OF COURT TO<br/>ASSIGN A DISTRICT JUDGE TO THIS ACTION</p> <p>FINDINGS AND RECOMMENDATIONS<br/>DENYING PLAINTIFF’S MOTION TO PROCEED<br/>IN FORMA PAUPERIS AND DISMISSING THE<br/>COMPLAINT WITHOUT LEAVE TO AMEND</p> |
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Plaintiff Jacob Ray Coronado initiated this action by filing a complaint and a motion to proceed *in forma pauperis* on September 18, 2014. (Docs. 1-2.) Because Plaintiff is unable to state a claim upon which relief may be granted by this Court, is recommended that Plaintiff’s motion to proceed *in forma pauperis* be **DENIED** and the complaint be **DISMISSED** without leave to amend.

**I. Motion to Proceed In Forma Pauperis**

As a general rule, all parties instituting any civil action, suit or proceeding in a United States District Court must pay a filing fee. 28 U.S.C. § 1914(a). However, the Court may authorize the commencement of an action “without prepayment of fees and costs of security therefor, by a person who submits an affidavit that . . . the person is unable to pay such fees or give security therefor.” 28 U.S.C. § 1915(a)(1). Therefore, an action may proceed despite a failure to prepay the filing fee only if leave to proceed *in forma pauperis* is granted by the Court. *See Rodriguez v. Cook*, 169 F.3d 1178, 1177 (9th Cir. 1999).

1 The Ninth Circuit has held “permission to proceed in forma pauperis is itself a matter of  
2 privilege and not a right; denial of an informa pauperis status does not violate the applicant’s right to  
3 due process.” *Franklin v. Murphy*, 745 F.2d 1221, 1231 (9th Cir. 1984) (citing *Weller v. Dickson*, 314  
4 F.2d 598, 600 (9th Cir. 1963)). In addition, the Court has broad discretion to grant or deny a motion to  
5 proceed IFP. *O’Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir. 1990); *Weller*, 314 F.2d at 600-01. In  
6 making a determination, the court “must be careful to avoid construing the statute so narrowly that a  
7 litigant is presented with a Hobson’s choice between eschewing a potentially meritorious claim or  
8 foregoing life’s plain necessities.” *Temple v. Ellertorpe*, 586 F.Supp. 848, 850 (D.R.I. 1984).

9 Here, the Court recommends Plaintiff’s application to proceed IFP be denied because, as  
10 discussed below, the complaint fails to state a meritorious claim upon which relief may be granted.  
11 See 28 U.S.C. § 1915(e)(2).

## 12 **II. Screening Requirement**

13 When a plaintiff proceeds *in forma pauperis*, the Court is required to review the complaint, and  
14 shall dismiss the case at any time if the Court determines that the allegation of poverty is untrue, or the  
15 action or appeal is “frivolous, malicious or fails to state a claim on which relief may be granted; or . . .  
16 seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. 1915(e)(2). A  
17 claim is frivolous “when the facts alleged arise to the level of the irrational or the wholly incredible,  
18 whether or not there are judicially noticeable facts available to contradict them.” *Denton v. Hernandez*,  
19 504 U.S. 25, 32-33 (1992).

## 20 **III. Pleading Standards**

21 General rules for pleading complaints are governed by the Federal Rules of Civil Procedure. A  
22 pleading stating a claim for relief must include a statement affirming the court’s jurisdiction, “a short  
23 and plain statement of the claim showing the pleader is entitled to relief; and . . . a demand for the  
24 relief sought, which may include relief in the alternative or different types of relief.” Fed. R. Civ. P.  
25 8(a). The Federal Rules adopt a flexible pleading policy, and *pro se* pleadings are held to “less  
26 stringent standards” than pleadings by attorneys. *Haines v. Kerner*, 404 U.S. 519, 521-21 (1972).

27 A complaint must give fair notice and state the elements of the plaintiff’s claim in a plain and  
28 succinct manner. *Jones v. Cmty Redevelopment Agency*, 733 F.2d 646, 649 (9th Cir. 1984). Further, a

1 plaintiff must identify the grounds upon which the complaint stands. *Swierkiewicz v. Sorema N.A.*, 534  
2 U.S. 506, 512 (2002). The Supreme Court noted,

3 Rule 8 does not require detailed factual allegations, but it demands more than an  
4 unadorned, the-defendant-unlawfully-harmed-me accusation. A pleading that offers  
5 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.

6 *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009) (internal quotation marks and citations omitted).

7 Conclusory and vague allegations do not support a cause of action. *Ivey v. Board of Regents*, 673 F.2d  
8 266, 268 (9th Cir. 1982). The Court clarified further,

9 [A] complaint must contain sufficient factual matter, accepted as true, to “state a claim  
10 to relief that is plausible on its face.” [Citation]. A claim has facial plausibility when  
the plaintiff pleads factual content that allows the court to draw the reasonable  
11 inference that the defendant is liable for the misconduct alleged. [Citation]. The  
12 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  
13 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.’”

14 *Iqbal*, 129 S. Ct. at 1949 (citations omitted). When factual allegations are well-pled, a court should  
15 assume their truth and determine whether the facts would make the plaintiff entitled to relief; legal  
16 conclusions in the pleading are not entitled to the same assumption of truth. *Id.*

17 The Court has a duty to dismiss a case at any time it determines an action fails to state a claim,  
18 “notwithstanding any filing fee that may have been paid.” 28 U.S.C. § 1915e(2). Accordingly, a court  
19 “may act on its own initiative to note the inadequacy of a complaint and dismiss it for failure to state a  
20 claim.” *See Wong v. Bell*, 642 F.2d 359, 361 (9th Cir. 1981) (citing 5 C. Wright & A. Miller, *Federal*  
21 *Practice and Procedure*, § 1357 at 593 (1963)). However, leave to amend a complaint may be granted  
22 to the extent deficiencies of the complaint can be cured by an amendment. *Lopez v. Smith*, 203 F.3d  
23 1122, 1127-28 (9th Cir. 2000) (en banc).

#### 24 **IV. Discussion and Analysis**

25 Plaintiff alleges he has been deprived of his legal property related to the estate of Jessie Marie  
26 MacCrone, also known as J.J. Coronado. (Doc. 1 at 3-4.) He asserts that Defendants Margarita Saiza,  
27 sister-in-law of the decedent, and John Coronado, the decedent’s eldest son, “acted in concert to  
28 appoint Defendant, Richard E. Huber as Successor Trustee to the Jessie M. MacCrone Estate.” (*Id.* at

1 4.) Plaintiff reports that Huber was appointed by the Superior Court of California, County of Madera  
2 as the Successor Trustee to the MacCrone Estate following the filing of a declaration by Defendant  
3 Margarita Saiza in support of a petition for appointment. (*Id.* at 7-6.)

4 According to Plaintiff, the state court erred in appointing Huber as trustee because the petition  
5 and declaration failed to “meet the legal requirements of California Probate Code § 810.(a)(b)(c) in  
6 determining that any of the beneficiaries listed in the MacCrone Estate were mentally incapacitated to  
7 the extent of being incapable of consenting to agree or being consulted in legal matters pertaing (sic) to  
8 the Estate.” (Doc. 1 at 7.) Plaintiff believes Huber acted without the proper legal authority in  
9 distributing the assets of the estate. (*Id.* at 6-7.) Therefore, Plaintiff asserts the defendants are liable for  
10 a violation of the Fourteenth Amendment for the deprivation “of his legal property related to Financial,  
11 Real Estate, and Real Property listed in the J.M. MacCrone Estate.” (*Id.* at 3.)

12 **A. Section 1983 Claims**

13 Plaintiff seeks to state a claim pursuant to 42 U.S.C. § 1983, which “is a method for vindicating  
14 federal rights elsewhere conferred.” *Albright v. Oliver*, 510 U.S. 266, 271 (1994). An individual may  
15 bring a civil rights action pursuant to Section 1983, which provides:

16 Every person who, under color of any statute, ordinance, regulation, custom, or usage, of  
17 any State or Territory or the District of Columbia, subjects, or causes to be subjected, any  
18 citizen of the United States or other person within the jurisdiction thereof to the  
19 deprivation of any rights, privileges, or immunities secured by the Constitution and laws,  
shall be liable to the party injured in an action at law, suit in equity, or other proper  
proceeding for redress.

20 42 U.S.C. § 1983. A plaintiff must allege facts from which it may be inferred (1) he was deprived of a  
21 federal right, and (2) a person or entity who committed the alleged violation acted under color of state  
22 law. *West v. Atkins*, 487 U.S. 42, 48 (1988); *Williams v. Gorton*, 529 F.2d 668, 670 (9th Cir. 1976).

23 Significantly, “private parties are not generally acting under color of state law.” *Price v.*  
24 *Hawaii*, 939 F.2d 702, 707-09 (9th Cir. 1991); *see also Harvey v. Harvey*, 949 F.2d 1127, 1130 (11th  
25 Cir. 1992) (“Only in rare circumstances can a private party be viewed as a ‘state actor’ for section 1983  
26 purposes.”). Because Plaintiff has not alleged facts sufficient to support a finding that Defendants  
27 acted under color of state law to deprive him of a constitutional right, he has not state a cognizable  
28 claim for a violation of Section 1983. Accordingly, the Court recommends this claim be **DISMISSED**.

1           **B.       The *Rooker-Feldman* Doctrine**

2           Because Plaintiff challenges the appointment of defendant Huber as the estate trustee and the  
3 administration of the estate, the Court lacks jurisdiction over his claims. Under the *Rooker-Feldman*  
4 doctrine, a party may not seek appellate review in federal court of a decision made by a state court. *See*  
5 *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *D.C. Court of Appeals v. Feldman*, 460 U.S. 462  
6 (1983). The Ninth Circuit explained,

7           Typically, the *Rooker-Feldman* doctrine bars federal courts from exercising subject-  
8 matter jurisdiction over a proceeding in which a party losing in state court seeks what  
9 in substance would be appellate review of the state judgment in a United States district  
court, based on the losing party's claim that the state judgment itself violates the losers' federal rights.

10 *Doe v. Mann*, 415 F.3d 1038, 1041-42 (9th Cir. 2005); *see also Exxon Mobil Corp. v. Saudi Basic*  
11 *Indus. Corp.*, 544 U.S. 280, 284 (2005) (the *Rooker-Feldman* doctrine precludes a district court from  
12 appellate review of “cases brought by state-court losers complaining of injuries caused by state-court  
13 judgments rendered before the district court proceeding commenced . . .”). Accordingly, the district  
14 court lacks jurisdiction over “claims . . . ‘inextricably intertwined’ with the state court’s decision such  
15 that the adjudication of the federal claims would undercut the state ruling.” *Bianchi v. Rylaarsdam*, 334  
16 F.3d 895, 898 (9th Cir. 2003) (citing *Feldman*, 460 U.S. at 483, 485)).

17           Where a plaintiff challenges either the appointment of a trustee by the state court or the  
18 administration of an estate, the district court lacks jurisdiction to provide any relief. As the Supreme  
19 Court explained, state probate courts retain jurisdiction over “the probate or annulment of a will and the  
20 administration of a decedent’s estate,” which “precludes federal courts from endeavoring to dispose of  
21 property that is in the custody of a state probate court.” *Marshall v. Marshall*, 547 U.S. 293, 311-12,  
22 (2006); *see also Lefkowitz v. Bank of New York*, 528 F.3d 102, 107 (2d Cir. 2007) (holding the district  
23 court lacked jurisdiction over maladministration claims). Accordingly, pursuant to the *Rooker-*  
24 *Feldman* doctrine, the Court is unable to grant Plaintiff relief related to the appointment of Huber as the  
25 estate trustee and the administration of the estate.

26           **V.       Conclusion**

27           A plaintiff should be granted leave to amend when the deficiencies of the complaint can be  
28 cured by amendment. *Lopez*, 203 F.3d at 1130. Because the Court is unable to grant relief pursuant to

1 the *Rooker-Feldman* doctrine, Plaintiff is unable to state a claim upon which relief can be granted.  
2 Accordingly, leave to amend to amend would be futile. *Id.* (dismissal of a *pro se* complaint for failure  
3 to state a claim is proper where it is obvious that the plaintiff cannot prevail on the facts that she has  
4 alleged and that an opportunity to amend would be futile); *see also Noll v. Carlson*, 809 F.2d 1446,  
5 1448-49 (9th Cir. 1987).

6 **ORDER**

7 Good cause appearing, the Clerk of Court is DIRECTED to assign a United States District  
8 Judge to this action.

9 **FINDINGS AND RECOMMENDATIONS**

10 Based upon the foregoing, the Court **RECOMMENDS**:

- 11 1. Plaintiff's motion to proceed in forma pauperis be **DENIED**;
- 12 2. Plaintiff's complaint be **DISMISSED without leave to amend**; and
- 13 3. The Clerk of Court be DIRECTED to close the action.

14 These Findings and Recommendations are submitted to the United States District Judge  
15 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Rule 304 of the Local  
16 Rules of Practice for the United States District Court, Eastern District of California. Within 14 days  
17 after being served with these Findings and Recommendations, Plaintiff may file written objections with  
18 the Court. Such a document should be captioned "Objections to Magistrate Judge's Findings and  
19 Recommendations." Plaintiff is advised that failure to file objections within the specified time may  
20 waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

21  
22 IT IS SO ORDERED.

23 Dated: October 15, 2014

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