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

MELANIE C. LATRONICA,  
  
                    Plaintiff,  
  
          v.  
  
MERRILL LYNCH, et al.,  
  
                    Defendants.

Case No. 1:16-cv-01352-LJO-SAB  
  
ORDER DISMISSING COMPLAINT WITH  
LEAVE TO AMEND  
  
(ECF No. 1)  
  
THIRTY DAY DEADLINE

Plaintiff Melanie Latronica, proceeding pro se and in forma pauperis, filed this action on September 12, 2016. For the reasons discussed below, the Court dismisses Plaintiff’s complaint with leave to amend.

**I.**  
**SCREENING STANDARD**

Pursuant to 28 U.S.C. § 1915(e)(2), the Court must dismiss a case if at any time the Court determines that the complaint fails to state a claim upon which relief may be granted. In determining whether a complaint fails to state a claim, the Court uses the same pleading standard used under Federal Rule of Civil Procedure 8(a). A complaint must contain “a short and plain statement of the claim showing that the pleader is entitled to relief. . . .” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are not required, but “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)).



1 v. Community Redev. Agency, 733 F.2d 646, 649 (9th Cir. 1984). Plaintiff must allege with at  
2 least some degree of particularity overt acts which Defendants engaged in that support Plaintiff's  
3 claim. Id. The Court finds that Plaintiff's allegations are largely incomprehensible, are fanciful,  
4 and fail to state a cognizable claim. Therefore, Plaintiff's complaint must be dismissed.  
5 However, the Court will grant Plaintiff the opportunity to amend her complaint.

### 6 **III.**

### 7 **ORDER**

8 For the reasons stated, Plaintiff's complaint fails to state a claim upon which relief may  
9 be granted. Plaintiff is granted leave to file an amended complaint within thirty (30) days. Noll  
10 v. Carlson, 809 F.2d 1446, 1448-49 (9th Cir. 1987). Plaintiff may not change the nature of this  
11 suit by adding new, unrelated claims in her amended complaint. George v. Smith, 507 F.3d 605,  
12 607 (7th Cir. 2007) (no "buckshot" complaints).

13 Plaintiff's amended complaint should be brief. Fed. R. Civ. P. 8(a). Plaintiff should  
14 clearly and briefly set forth the facts in support of each claim and should supply the facts  
15 necessary to link the alleged violation of her constitutional right to acts or omissions of the  
16 Defendants. Plaintiff must identify how each individual defendant caused the deprivation of  
17 Plaintiff's rights: "The inquiry into causation must be individualized and focus on the duties and  
18 responsibilities of each individual defendant whose acts or omissions are alleged to have caused  
19 a constitutional deprivation." Leer v. Murphy, 844 F.2d 628, 633 (9th Cir. 1988). However,  
20 Plaintiff should not argue and should not set forth a lengthy description of immaterial facts.

21 With respect to exhibits, while they are permissible if incorporated by reference, Fed. R.  
22 Civ. P. 10(c), they are not necessary in the federal system of notice pleading, Fed. R. Civ. P.  
23 8(a). In other words, it is not necessary at this stage to submit evidence to prove the allegations  
24 in Plaintiff's complaint because at this stage Plaintiff's factual allegations will be accepted as  
25 true. Although Plaintiff's factual allegations will be accepted as true and "the pleading standard  
26 Rule 8 announces does not require 'detailed factual allegations,'" "a complaint must contain  
27 sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" Iqbal,  
28 556 U.S. at 678 (quoting Twombly, 550 U.S. at 555). "A claim has facial plausibility

1 when the plaintiff pleads factual content that allows the court to draw the reasonable inference  
2 that the defendant is liable for the misconduct alleged.” Iqbal, 556 U.S. at 678 (citing Twombly,  
3 550 U.S. at 556).

4 Plaintiff is advised that an amended complaint supersedes the original complaint.  
5 Forsyth v. Humana, Inc., 114 F.3d 1467, 1474 (9th Cir. 1997); King v. Atiyeh, 814 F.2d 565,  
6 567 (9th Cir. 1987). The amended complaint must be “complete in itself without reference to the  
7 prior or superseded pleading.” Local Rule 220. Plaintiff is warned that “[a]ll causes of action  
8 alleged in an original complaint which are not alleged in an amended complaint are waived.”  
9 King, 814 F.2d at 567 (citing London v. Coopers & Lybrand, 644 F.2d 811, 814 (9th Cir. 1981));  
10 accord Forsyth, 114 F.3d at 1474. Finally, Plaintiff is warned that if she states incomprehensible  
11 and fanciful allegations in her amended complaint, she will not be provided another opportunity  
12 to amend her complaint.

13 Based on the foregoing, it is HEREBY ORDERED that:

- 14 1. Plaintiff’s complaint is dismissed for failure to state a claim;
- 15 2. Within **thirty (30) days** from the date of service of this order, Plaintiff shall file  
16 an amended complaint; and
- 17 3. If Plaintiff fails to file an amended complaint in compliance with this order, this  
18 action will be dismissed for failure to state a claim.

19 IT IS SO ORDERED.

20 Dated: September 26, 2016

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23 UNITED STATES MAGISTRATE JUDGE  
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