

1 **I. Screening Requirement**

2 When a plaintiff proceeds *in forma pauperis*, the Court is required to review the complaint, and
3 shall dismiss the case at any time if the Court determines that the allegation of poverty is untrue, or the
4 action or appeal is “frivolous, malicious or fails to state a claim on which relief may be granted; or . . .
5 seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. 1915(e)(2). A
6 claim is frivolous “when the facts alleged arise to the level of the irrational or the wholly incredible,
7 whether or not there are judicially noticeable facts available to contradict them.” *Denton v. Hernandez*,
8 504 U.S. 25, 32-33 (1992).

9 **II. Pleading Standards**

10 General rules for pleading complaints are governed by the Federal Rules of Civil Procedure. A
11 pleading stating a claim for relief must include a statement affirming the court’s jurisdiction, “a short
12 and plain statement of the claim showing the pleader is entitled to relief; and . . . a demand for the
13 relief sought, which may include relief in the alternative or different types of relief.” Fed. R. Civ. P.
14 8(a). The Federal Rules adopt a flexible pleading policy, and *pro se* pleadings are held to “less
15 stringent standards” than pleadings by attorneys. *Haines v. Kerner*, 404 U.S. 519, 521-21 (1972).

16 A complaint must give fair notice and state the elements of the plaintiff’s claim in a plain and
17 succinct manner. *Jones v. Cmty Redevelopment Agency*, 733 F.2d 646, 649 (9th Cir. 1984). Further, a
18 plaintiff must identify the grounds upon which the complaint stands. *Swierkiewicz v. Sorema N.A.*, 534
19 U.S. 506, 512 (2002). The Supreme Court noted,

20 Rule 8 does not require detailed factual allegations, but it demands more than an
21 unadorned, the-defendant-unlawfully-harmed-me accusation. A pleading that offers
22 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.

23 *Ashcroft v. Iqbal*, 556 U.S. 662, 677 (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 plaintiff pleads factual content that allows the court to draw the reasonable
28 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

1 a sheer possibility that a defendant has acted unlawfully. [Citation]. Where a complaint
2 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.’

3 *Iqbal*, 566 U.S. at 678 (citations omitted). When factual allegations are well-pled, a court should
4 assume their truth and determine whether the facts would make the plaintiff entitled to relief; legal
5 conclusions in the pleading are not entitled to the same assumption of truth. *Id.*

6 The Court has a duty to dismiss a case at any time it determines an action fails to state a claim,
7 “notwithstanding any filing fee that may have been paid.” 28 U.S.C. § 1915e(2). Accordingly, a court
8 “may act on its own initiative to note the inadequacy of a complaint and dismiss it for failure to state a
9 claim.” *See Wong v. Bell*, 642 F.2d 359, 361 (9th Cir. 1981) (citing 5 C. Wright & A. Miller, *Federal*
10 *Practice and Procedure*, § 1357 at 593 (1963)). However, leave to amend a complaint may be granted
11 to the extent deficiencies of the complaint can be cured by an amendment. *Lopez v. Smith*, 203 F.3d
12 1122, 1127-28 (9th Cir. 2000) (en banc).

13 **III. Plaintiff’s Contentions**

14 Plaintiff asserts that individuals “have been through trauma to the brain by the CDCR in
15 segregated housing units and need proper [r]ehabilitation learning skills to adapt.” (Doc. 1 at 5)
16 Plaintiff contends: “Solitary Confinement causes psychological distress, inmates [have] been deprived
17 from social contact and sunlight, adequate healthcare has proven to be inhumane and unconstitutional.
18 This is an ongoing crisis, no one dares to admit...” (*Id.*)

19 **IV. Discussion and Analysis**

20 Plaintiff does not present any facts indicating that she has been incarcerated or personally
21 suffered violations of the constitutional provisions she identifies in the complaint. Rather, it appears
22 Plaintiff, who also reports that she is employed at a “neuro skills” facility (Doc. 2 at 1), seeks to state
23 claims on behalf of others.

24 Significantly, as explained by the Supreme Court of the United States, “those who seek to
25 invoke the jurisdiction of the federal courts must satisfy the threshold requirement imposed by Article
26 III of the Constitution by alleging an actual case or controversy.” *City of Los Angeles v. Lyons*, 461
27 U.S. 95, 101 (1983). “[T]he Constitution mandates that prior to our exercise of jurisdiction there exist
28 a constitutional ‘case or controversy,’ that the issues presented are ‘definite and concrete, not

1 hypothetical or abstract.” *Thomas v. Anchorage Equal Rights Comm’n*, 220 F.3d 1134, 1138 (9th Cir.
2 2000) (quoting *Railway Mail Assoc. v. Corsi*, 326 U.S. 88, 93 (1945)). To satisfy the “case or
3 controversy” requirement, a plaintiff must demonstrate standing under Article III to bring suit. *Human*
4 *Life of Wash., Inc. v. Brumsickle*, 624 F.3d 990, 1000 (9th Cir. 2010); *see also Skaff v. Meridien N. Am.*
5 *Beverly Hills, LLC*, 506 F.3d 832, 838 (2007) (“standing is an essential and unchanging part of the
6 case-or-controversy requirement of Article III”).

7 To establish standing—and thus that there is an actual case or controversy—a plaintiff “must
8 demonstrate (1) an injury-in-fact, (2) causation, and (3) a likelihood that the injury will be redressed by
9 a decision in the plaintiff’s favor.” *Human Life*, 624 F.3d at 1000 (citing *Lujan v. Defenders of Wildlife*,
10 504 U.S. 555, 560 (1992)). Plaintiff must alleges facts that support a conclusion that *she*, as opposed to
11 others, has suffered an injury-in-fact and must identify wrongful any acts that she claims caused *her* to
12 be injured. Rather, she broadly identifies harms suffered by prisoners in administrative segregation and
13 solitary confinement, without clarifying whether *she* has suffered any injury through incarceration.
14 Though the Court does not doubt Plaintiff’s altruistic motives, the allegations before the Court are
15 insufficient to demonstrate that Plaintiff has standing to bring the claims for civil rights violations
16 identified in the complaint.

17 **V. Conclusion and Order**

18 Given the lack of factual allegations, the Court is unable to find Plaintiff has standing to state
19 the claims raised in her complaint. Accordingly, Plaintiff will be given an opportunity to amend the
20 complaint to allege facts sufficient to demonstrate standing. *See Noll v. Carlson*, 809 F.2d 1446,
21 1448-49 (9th Cir. 1987).

22 Plaintiff is advised that an amended complaint supersedes the original complaint. *Forsyth v.*
23 *Humana, Inc.*, 114 F.3d 1467, 1474 (9th Cir. 1997); *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987).
24 In addition, the amended complaint must be “complete in itself without reference to the prior or
25 superseded pleading.” Local Rule 220. Once Plaintiff files an amended complaint, the original
26 pleading no longer serves any function in the case. The amended complaint must bear the docket
27 number assigned this case and must be labeled “First Amended Complaint.” If Plaintiff fails to allege
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1 facts supporting a conclusion that she has suffered an injury-in-fact, the Court will find she is unable
2 to do so.

3 Based upon the foregoing, the Court **ORDERS**:

- 4 1. Plaintiff's Complaint is **DISMISSED WITH LEAVE TO AMEND**; and
- 5 2. Within twenty-one days from the date of service of this order, Plaintiff **SHALL** file a
6 First Amended Complaint.

7 **If Plaintiff fails to comply with this order to file an amended complaint, the action may be**
8 **dismissed for failure to prosecute and failure to obey the Court's order.**

9
10 IT IS SO ORDERED.

11 Dated: April 13, 2017

12 /s/ Jennifer L. Thurston
13 UNITED STATES MAGISTRATE JUDGE