



1 Cir. 1984). The court may, therefore, dismiss a claim as frivolous where it is based on an  
2 indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke,  
3 490 U.S. at 327.

4 A complaint, or portion thereof, should only be dismissed for failure to state a claim upon  
5 which relief may be granted if it appears beyond doubt that plaintiff can prove no set of facts in  
6 support of the claim or claims that would entitle him to relief. Hishon v. King & Spalding, 467  
7 U.S. 69, 73 (1984) (citing Conley v. Gibson, 355 U.S. 41, 45-46 (1957)); Palmer v. Roosevelt  
8 Lake Log Owners Ass'n, 651 F.2d 1289, 1294 (9th Cir. 1981). In reviewing a complaint under  
9 this standard, the court must accept as true the allegations of the complaint in question, Hospital  
10 Bldg. Co. v. Rex Hosp. Trustees, 425 U.S. 738, 740 (1976), construe the pleading in the light  
11 most favorable to the plaintiff, and resolve all doubts in the plaintiff's favor, Jenkins v.  
12 McKeithen, 395 U.S. 411, 421 (1969).

13 Plaintiff here brings forth two claims against defendants Stonebridge Investment, LLC  
14 (aka "I Stopped the Sheriff") and Bank of America for negligence. These claims arise out of  
15 certain fraudulent and predatory business practices allegedly employed by Stonebridge  
16 Investment when purporting to provide legal services in order to delay evictions for its clients.

17 Pursuant to 28 U.S.C. § 1331, federal district courts have original jurisdiction over "all  
18 civil actions arising under the Constitution, laws, or treaties of the United States." "A case 'arises  
19 under' federal law either where federal law creates the cause of action or 'where the vindication  
20 of a right under state law necessarily turn[s] on some construction of federal law.'" Republican  
21 Party of Guam v. Gutierrez, 277 F.3d 1086, 1088-89 (9th Cir. 2002) (quoting Franchise Tax Bd.  
22 v. Construction Laborers Vacation Trust, 463 U.S. 1, 8-9 (1983)). The presence or absence of  
23 federal-question jurisdiction is governed by the "well-pleaded complaint rule." Caterpillar, Inc.  
24 v. Williams, 482 U.S. 386, 392 (1987). Under the well-pleaded complaint rule, "federal  
25 jurisdiction exists only when a federal question is presented on the face of the plaintiff's properly  
26 pleaded complaint." Id. "Dismissal for lack of subject-matter jurisdiction because of the  
27 inadequacy of the federal claim is proper only when the claim is so insubstantial, implausible,  
28 foreclosed by prior decisions of this Court, or otherwise devoid of merit as not to involve a

1 federal controversy.” United States v. Morros, 268 F.3d 695, 701 (9th Cir. 2001) (quoting Steel  
2 Co. v. Citizens for a Better Env’t, 523 U.S. 83, 89 (1998) (quotation omitted)). Plaintiff is  
3 alleging claims for negligence against the defendants. Because these matters do not appear to  
4 arise under federal law, the court does not have federal question jurisdiction.


5 Pursuant to 28 U.S.C. § 1332, federal district courts have original jurisdiction over civil  
6 actions in diversity cases “where the matter in controversy exceeds the sum or value of \$75,000”  
7 and where the matter is between “citizens of different States.” Diversity jurisdiction requires  
8 plaintiff to be diverse from all named defendants. See 28 U.S.C. § 1332. Plaintiff and  
9 Stonebridge Investment appear to be California citizens, and therefore the complete diversity  
10 requirement is not satisfied.

11 Accordingly, IT IS HEREBY ORDERED that plaintiff’s motion to proceed in forma  
12 pauperis (ECF No. 2) is granted; and

13 IT IS HEREBY RECOMMENDED that this action be dismissed for lack of subject matter  
14 jurisdiction.

15 These findings and recommendations are submitted to the United States District Judge  
16 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
17 after being served with these findings and recommendations, any party may file written  
18 objections with the court and serve a copy on all parties. Such a document should be captioned  
19 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections  
20 within the specified time may waive the right to appeal the District Court’s order. Turner v.  
21 Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir.  
22 1991).

23 DATED: December 27, 2013

24   
25 ALLISON CLAIRE  
26 UNITED STATES MAGISTRATE JUDGE  
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