

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

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SHARRON EVON ROBERTSON,  
Plaintiff,  
v.  
SUPREME COURT "PARTNER",  
Defendant.

No. 2:14-cv-1685-KJM-EFB PS

ORDER AND FINDINGS AND  
RECOMMENDATIONS

This case, in which plaintiff is proceeding *in propria persona*, was referred to the undersigned under Local Rule 302(c)(21), pursuant to 28 U.S.C. § 636(b)(1). Plaintiff seeks leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. Her declaration makes the showing required by 28 U.S.C. §1915(a)(1) and (2). *See* ECF No. 2. Accordingly, the request to proceed *in forma pauperis* is granted. 28 U.S.C. § 1915(a).

Determining that plaintiff may proceed *in forma pauperis* does not complete the required inquiry. Pursuant to § 1915(e)(2), the court must dismiss the case at any time if it determines the allegation of poverty is untrue, or if the action is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against an immune defendant.

Although pro se pleadings are liberally construed, *see Haines v. Kerner*, 404 U.S. 519, 520-21 (1972), a complaint, or portion thereof, should be dismissed for failure to state a claim if it fails to set forth "enough facts to state a claim to relief that is plausible on its face." *Bell Atl.*

1 *Corp. v. Twombly*, 550 U.S. 544, 554, 562-563 (2007) (citing *Conley v. Gibson*, 355 U.S. 41  
2 (1957)); *see also* Fed. R. Civ. P. 12(b)(6). “[A] plaintiff’s obligation to provide the ‘grounds’ of  
3 his ‘entitlement to relief’ requires more than labels and conclusions, and a formulaic recitation of  
4 a cause of action’s elements will not do. Factual allegations must be enough to raise a right to  
5 relief above the speculative level on the assumption that all of the complaint’s allegations are  
6 true.” *Id.* (citations omitted). Dismissal is appropriate based either on the lack of cognizable  
7 legal theories or the lack of pleading sufficient facts to support cognizable legal theories.  
8 *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990).

9 In reviewing a complaint under this standard, the court must accept as true the allegations  
10 of the complaint in question, *Hospital Bldg. Co. v. Rex Hosp. Trustees*, 425 U.S. 738, 740 (1976),  
11 construe the pleading in the light most favorable to the plaintiff, and resolve all doubts in the  
12 plaintiff’s favor, *Jenkins v. McKeithen*, 395 U.S. 411, 421 (1969). A pro se plaintiff must satisfy  
13 the pleading requirements of Rule 8(a) of the Federal Rules of Civil Procedure. Rule 8(a)(2)  
14 “requires a complaint to include a short and plain statement of the claim showing that the pleader  
15 is entitled to relief, in order to give the defendant fair notice of what the claim is and the grounds  
16 upon which it rests.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 554, 562-563 (2007) (citing  
17 *Conley v. Gibson*, 355 U.S. 41 (1957)).

18 Additionally, a federal court is a court of limited jurisdiction, and may adjudicate only  
19 those cases authorized by the Constitution and by Congress. *Kokkonen v. Guardian Life Ins. Co.*,  
20 511 U.S. 375, 377 (1994). The basic federal jurisdiction statutes, 28 U.S.C. §§ 1331 & 1332,  
21 confer “federal question” and “diversity” jurisdiction, respectively. Federal question jurisdiction  
22 requires that the complaint (1) arise under a federal law or the U. S. Constitution, (2) allege a  
23 “case or controversy” within the meaning of Article III, § 2 of the U. S. Constitution, or (3) be  
24 authorized by a federal statute that both regulates a specific subject matter and confers federal  
25 jurisdiction. *Baker v. Carr*, 369 U.S. 186, 198 (1962). To invoke the court’s diversity  
26 jurisdiction, a plaintiff must specifically allege the diverse citizenship of all parties, and that the  
27 matter in controversy exceeds \$75,000. 28 U.S.C. § 1332(a); *Bautista v. Pan American World*  
28 *Airlines, Inc.*, 828 F.2d 546, 552 (9th Cir. 1987). A case presumably lies outside the jurisdiction

1 of the federal courts unless demonstrated otherwise. *Kokkonen*, 511 U.S. at 376-78. Lack of  
2 subject matter jurisdiction may be raised at any time by either party or by the court. *Attorneys*  
3 *Trust v. Videotape Computer Products, Inc.*, 93 F.3d 593, 594-95 (9th Cir. 1996).

4 Plaintiff makes the request in her complaint that the court and the Federal Bureau of  
5 Investigation act on her behalf as a mediator in dissolving a partnership between plaintiff and  
6 “Supreme Court Partnership, J.F.K. Jr [sic] . . . and New York City, ‘George Magazine.’” ECF  
7 No. 1 at 2. Plaintiff alleges that “[m]onies allotted to [plaintiff] were discontinued and given to  
8 Mr. Kennedy and other affiliations.” The complaint also alleges that defendant obtained contracts  
9 by using personal records, which are allegedly contained in United States Supreme Court files.  
10 The civil cover sheet submitted with the complaint describes plaintiff’s cause of action as  
11 “Breach of U.S. Supreme Court contract between said Partners. Public domain created new  
12 contract w/o ‘court’ approval.” ECF No. 1-1. These vague, conclusory, and fanciful allegations  
13 are largely incomprehensible and fail to state a claim for relief. Furthermore, the allegations are  
14 plainly frivolous under 1915(e)(2) because they lack even “an arguable basis either in law or in  
15 fact,” and appear “fanciful,” “fantastic,” or “delusional.” *Neitzke v. Williams*, 490 U.S. 319, 325,  
16 328 (1989).

17 For these reasons the complaint must be dismissed without leave to amend. *See Lopez v.*  
18 *Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000) (“Under Ninth Circuit case law, district courts are  
19 only required to grant leave to amend if a complaint can possibly be saved. Courts are not  
20 required to grant leave to amend if a complaint lacks merit entirely.”); *see also Doe v. United*  
21 *States*, 58 F.3d 494, 497 (9th Cir. 1995) (“[A] district court should grant leave to amend even if  
22 no request to amend the pleading was made, unless it determines that the pleading could not be  
23 cured by the allegation of other facts.”).

24 Accordingly, it is hereby ORDERED that plaintiff’s request for leave to proceed *in forma*  
25 *pauperis*, ECF No. 2, is granted.

26 Further, it is hereby RECOMMENDED that:


27 1. Plaintiff’s complaint be dismissed without leave to amend, pursuant to 28 U.S.C.  
28 § 1915(e)(2), for failure to state a claim and as frivolous; and

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

2. The Clerk be directed to close the case.

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

DATED: November 20, 2014.

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE