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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAJ SINGH,  Plaintiff,  v.  COUNTY OF SACRAMENTO, et al.,  Defendants.	No. 2:14-cv-2382-JAM-KJN PS  <u>ORDER</u>
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Plaintiff Raj Singh, proceeding in this action without counsel, has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. (ECF No. 2.)<sup>1</sup> Plaintiff’s application in support of his request to proceed in forma pauperis makes the showing required by 28 U.S.C. § 1915. Accordingly, the undersigned grants plaintiff’s request to proceed in forma pauperis.

The determination that a plaintiff may proceed in forma pauperis does not complete the required inquiry. Pursuant to 28 U.S.C. § 1915(e)(2), the court is directed to dismiss the case at any time if it determines that 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

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<sup>1</sup> This case proceeds before the undersigned pursuant to E.D. Cal. L.R. 302(c)(21) and 28 U.S.C. § 636(b)(1).

1 an immune defendant.

2 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.  
3 Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th  
4 Cir. 1984). The court may, therefore, dismiss a claim as frivolous where it is based on an  
5 indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke,  
6 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully  
7 pleaded, has an arguable legal and factual basis. See Jackson v. Arizona, 885 F.2d 639, 640 (9th  
8 Cir. 1989); Franklin, 745 F.2d at 1227.

9 To avoid dismissal for failure to state a claim, a complaint must contain more than “naked  
10 assertions,” “labels and conclusions,” or “a formulaic recitation of the elements of a cause of  
11 action.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-57 (2007). In other words,  
12 “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory  
13 statements do not suffice.” Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009). Furthermore, a claim  
14 upon which the court can grant relief has facial plausibility. Twombly, 550 U.S. at 570. “A  
15 claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw  
16 the reasonable inference that the defendant is liable for the misconduct alleged.” Iqbal, 129 S. Ct.  
17 at 1949. When considering whether a complaint states a claim upon which relief can be granted,  
18 the court must accept the well-pled factual allegations as true, Erickson v. Pardus, 127 S. Ct.  
19 2197, 2200 (2007), and construe the complaint in the light most favorable to the plaintiff, see  
20 Scheuer v. Rhodes, 416 U.S. 232, 236 (1974).

21 Pro se pleadings are liberally construed. See Haines v. Kerner, 404 U.S. 519, 520-21  
22 (1972); Balistreri v. Pacifica Police Dep’t, 901 F.2d 696, 699 (9th Cir. 1988). Unless it is clear  
23 that no amendment can cure the defects of a complaint, a pro se plaintiff proceeding in forma  
24 pauperis is entitled to notice and an opportunity to amend before dismissal. See Noll v. Carlson,  
25 809 F.2d 1446, 1448 (9th Cir. 1987); Franklin, 745 F.2d at 1230.

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1 Here, plaintiff alleges in his complaint that defendants improperly declared two of  
2 plaintiff's properties uninhabitable and levied fines and criminal penalties on him and Karen  
3 Singh, an individual not named as a plaintiff in the complaint, after defendants ordered plaintiff to  
4 pay certain utility bills and provide maintenance for his properties while illegal occupants were  
5 residing on them. (ECF No. 1 at 3-4.) Plaintiff vaguely asserts that the fees were assessed  
6 against him without any due process. (Id.)

7 Plaintiff appears to also allege that after defendants condemned plaintiff's properties, they  
8 damaged the properties by boarding them up, which broke windows and caused other damage,  
9 and forced plaintiff to spend additional money on repairs in an attempt to comply with  
10 defendants' orders. (Id. at 4.) Defendants then required plaintiff to relocate the illegal occupants  
11 of these properties at plaintiff's own expense and continued to harass plaintiff with visits to his  
12 properties and further improper fines. (Id.) Plaintiff further alleges that defendant permitted  
13 trespassers to enter plaintiff's vacated properties "and steal all the fixtures, wiring and other  
14 belongings." (Id.)

15 Plaintiff also alleges that defendant Sacramento County took control of plaintiff's  
16 properties through a county-appointed receiver who sued plaintiff in state court. (Id. at 5.)  
17 Plaintiff further alleges that defendants "caused the killings of the occupants [of his property] by a  
18 fire" and came to plaintiff's home and seized plaintiff's computer and legal documents, which  
19 contained attorney-client communications. (Id.) Plaintiff also claims that defendants threatened  
20 plaintiff's attorneys to the point they can no longer help him and that the state courts are willing  
21 to prosecute plaintiff based on defendants' false claims but will not allow him to put on a defense.  
22 (Id.)

23 Plaintiff appears to allege that defendants' actions with respect to him and his properties  
24 are part of a larger illicit scheme perpetrated by defendants where defendants charge property  
25 owners of Sacramento County fines for various erroneous violations and then continue to illegally  
26 cite the owners after they attempt to resolve the violation until the fines become so great that  
27 defendants sue the home owners in state court to take control over the owners' property via a  
28 court-appointed receiver. (Id.) Plaintiff includes a section in his complaint entitled "class action

1 allegations” in what appears to be an attempt to obtain class certification for citizens of  
2 Sacramento County who were also subjected to this alleged scheme. (Id. at 6.)

3 Based on these allegations, plaintiff asserts the following causes of action against all  
4 defendants: “Violation of California Health and safety code and Other Codes”; “Violation of  
5 Constitutional Rights”; trespass to chattels; and civil conspiracy. (Id. at 7-8.) Based on these  
6 claims, plaintiff seeks compensatory damages, punitive damages, and injunctive relief. (Id. at 9.)

7 As alleged, plaintiff’s complaint contains a number of deficiencies. First, plaintiff styles  
8 this case as a putative class action and appears to seek class certification for other individuals  
9 alleged to have been similarly injured by defendants’ actions. However, plaintiff appears in this  
10 action pro se and, therefore, cannot prosecute this case as a class action. A non-attorney  
11 proceeding pro se may bring his own claims to court, but may not represent others. Fymbo v.  
12 State Farm Fire & Casualty Co., 213 F.3d 1320, 1321 (2000); Johns v. County of San Diego, 114  
13 F.3d 874, 876 (9th Cir. 1997); C.E. Pope Equity Trust v. United States, 818 F.2d 696, 697 (9th  
14 Cir. 1987) (holding that a non-attorney has a right to appear pro se on his or her own behalf, but  
15 “has no authority to appear as an attorney for others”).<sup>2</sup>

16 Furthermore, plaintiff alleges claims for violations of California’s Health & Safety Code,  
17 Business & Professions Code, and “Other Codes” without specifying which section or sections of  
18 these Codes defendants allegedly violated. (ECF No. 1 at 7, 9.) Similarly, plaintiff alleges that  
19 defendants violated his “Constitutional Rights,” without specifying which constitutional right or  
20 rights he seeks to vindicate through this action.

21 Finally, plaintiff’s factual allegations concerning defendants’ purportedly illegal actions  
22 consist largely of vague assertions and conclusory statements that give little indication to the  
23 court or to defendants as to what specific act or acts underly each of plaintiff’s claims. In short,  
24 based on what the court can ascertain from the complaint, plaintiff does not plead sufficient facts  
25 which, if accepted as true, would allow the court to draw the reasonable inference that defendants

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27 <sup>2</sup> The complaint appears to also assert claims on behalf of Karen Singh, who is not named as a  
28 plaintiff in this action. Plaintiff cannot assert claims on this individual’s behalf for the same  
reason he cannot represent members of the alleged putative class.

1 are liable for the misconduct alleged. Therefore, the court dismisses plaintiff's complaint, but  
2 with leave to amend.

3 If plaintiff elects to file an amended complaint, it shall be captioned "First Amended  
4 Complaint"; shall be no longer than 20 pages; shall correct the deficiencies outlined in this order;  
5 and shall be filed within 28 days of this order.

6 Plaintiff is informed that the court cannot refer to a prior complaint or other filing in order  
7 to make plaintiff's first amended complaint complete. Local Rule 220 requires that an amended  
8 complaint be complete in itself without reference to any prior pleading. As a general rule, an  
9 amended complaint supersedes the original complaint, and once the first amended complaint is  
10 filed, the original complaint no longer serves any function in the case.


11 Finally, nothing in this order requires plaintiff to file a first amended complaint. If  
12 plaintiff determines that he is unable to amend his complaint in compliance with the court's order  
13 at this juncture, he may alternatively file a notice of voluntary dismissal of his claims without  
14 prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) within 28 days of this order.

15 Accordingly, for the reasons outlined above, IT IS HEREBY ORDERED that:

- 16 1. Plaintiff's motion to proceed in forma pauperis (ECF No. 2) is granted.
- 17 2. Plaintiff's complaint is dismissed, but with leave to amend.
- 18 3. Within 28 days of this order, plaintiff shall file either a first amended complaint in  
19 compliance with this order, or a notice of voluntary dismissal of the action without  
20 prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i).
- 21 4. Failure to file either a first amended complaint in compliance with this order or a  
22 notice of voluntary dismissal by the required deadline may result in a recommendation  
23 that the action be dismissed with prejudice pursuant to Federal Rule of Civil Procedure  
24 41(b).

25 IT IS SO ORDERED.

26 Dated: April 10, 2015

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28 KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE