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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

KIMBERLY R. OLSON,
Plaintiff,

No. 2:15-cv-0646-MCE-CMK

vs.

ORDER

HORNBROOK COMMUNITY
SERVICES DISTRICT, et al.,
Defendants.

_____/

Plaintiff, proceeding pro se, brings this civil action. Pending before the court is plaintiff's amended complaint (Doc. 8).

As plaintiff is aware, the court is required to screen complaints brought by litigants who have been granted leave to proceed in forma pauperis. See 28 U.S.C. § 1915(e)(2). Under these screening provisions, the court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. §§ 1915(e)(2)(A), (B) and 1915A(b)(1), (2). Moreover, pursuant to Federal Rule of Civil Procedure 12(h), this court must dismiss an action “[w]henever it appears . . . that the court lacks jurisdiction of the subject matter”

1 Plaintiff's original complaint was dismissed, with leave to amend, as it failed to
2 comply with the Federal Rules of Civil Procedure's requirement that a complaint contain a "short
3 and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P.
4 8(a). Plaintiff's original complaint was 84 pages long, containing 60 pages of background
5 information, and almost 200 pages of exhibits. Plaintiff was informed her complaint failed to
6 meet the brevity standard, and was provided an opportunity to file an amended complaint.
7 Plaintiff was cautioned that while the court was not placing a specific page limitation on the
8 amended complaint, that any amended complaint was expected to be limited in length.

9 Plaintiff failed to heed the court's direction and caution. Instead of limiting her
10 complaint, plaintiff has expanded it to an unreasonable degree. Her amended complaint is twice
11 as large as the original complaint, attempts to add new defendants and new claims, and again
12 fails to meet the requirements of Rule 8. Plaintiff's disregard for the Rules of Civil Procedure
13 and this court's order is unacceptable. If plaintiff decides to pursue this case, she must follow the
14 Rules and court orders. Failure to do so may result in the dismissal of this action. See Local
15 Rule 110.

16 The court again provides plaintiff with the following guidance:

17 The Federal Rules of Civil Procedure require that
18 complaints contain a "short and plain statement of the claim
19 showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a).
20 This means that claims must be stated simply, concisely, and
21 directly. See McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir.
22 1996) (referring to Fed. R. Civ. P. 8(e)(1)). These rules are
23 satisfied if the complaint gives the defendant fair notice of the
24 plaintiff's claim and the grounds upon which it rests. See Kimes v.
25 Stone, 84 F.3d 1121, 1129 (9th Cir. 1996). "Although a pro se
26 litigant . . . may be entitled to great leeway when the court
construes his pleadings, those pleadings nonetheless must meet
some minimum threshold in providing a defendant with notice of
what it is that it allegedly did wrong." Brazil v. U.S. Dep't of
Navy, 66 F.3d 193, 199 (9th Cir. 1995).

...

The Federal Rules of Civil Procedure contemplate brevity.
See Galbraith v. Co. of Santa Clara, 307 F.3d 1119, 1125 (9th Cir.

1 2002) (noting that “nearly all of the circuits have now disapproved
2 any heightened pleading standard in cases other than those
3 governed by Rule 9(b)”); Fed. R. Civ. P. 84; cf. Rule 9(b) (setting
4 forth rare exceptions to simplified pleading). Although the Federal
5 Rules adopt a flexible pleading policy, a complaint must give fair
6 notice and state the elements of the claim plainly and succinctly.
7 See Jones v. Cmty. Redev. Agency, 733 F.2d 646, 649 (9th cir.
8 1984). A plaintiff’s claims must be set forth in short and plain
9 terms, simply, concisely and directly. See Swierkiewicz v. Sorema
10 N.A., 534 U.S. 506, 514 (2002) (“Rule 8(a) is the starting point of
11 a simplified pleading system, which was adopted to focus litigation
12 on the merits of a claim.”); Fed. R. Civ. P. 8. Thus, a plaintiff
13 must not include in the pleading all preambles, introductions,
14 argument, speeches, explanations, stories, griping, vouching,
15 evidence, attempts to negate possible defenses, summaries, and the
16 like. See McHenry, 84 F.3d at 1177-78 (affirming dismissal of §
17 1983 complaint for violation of Rule 8 after warning); see also
18 Crawford-El v. Britton, 523 U.S. 574, 597 (1998) (reiterating that
19 “firm application of the Federal Rules of Civil Procedure is fully
20 warranted” even in pro se prisoner cases). The court (and
21 defendant) should be able to read and understand plaintiff’s
22 pleading within minutes. See McHenry, 84 F.3d at 1179-80. A
23 long, rambling pleading including many defendants with
24 unexplained, tenuous or implausible connection to the alleged
25 constitutional injury, or joining a series of unrelated claims against
26 many defendants, very likely will result in delaying the review
required by 28 U.S.C. § 1915 and an order dismissing plaintiff’s
action pursuant to Fed. R. Civ. P. 41 for violation of these
instructions.

16 See Order, Doc. 5.

17 As plaintiff’s amended complaint fails to meet the pleading requirements of Rule
18 8, the amended complaint will be dismissed. Plaintiff will be provided one more opportunity to
19 file a complaint that meets the pleading requirements. Any amended complaint filed shall not
20 exceed 25 pages in length, including any attachments and/or exhibits. Failure to file a complaint
21 that complies with this requirement may result in dismissal of this action without further leave to
22 amend.

23 Plaintiff is again informed that, as a general rule, an amended complaint
24 supersedes the original complaint. See Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992).
25 Thus, following dismissal with leave to amend, all claims alleged in the original complaint which
26 are not alleged in the amended complaint are waived. See King v. Atiyeh, 814 F.2d 565, 567

1 (9th Cir. 1987). Therefore, if plaintiff amends the complaint, the court cannot refer to the prior
2 pleading in order to make plaintiff's amended complaint complete. See Local Rule 220. An
3 amended complaint must be complete in itself without reference to any prior pleading. See id.

4 Finally, plaintiff is warned that failure to file an amended complaint within the
5 time provided in this order may be grounds for dismissal of this action. See Ferdik, 963 F.2d at
6 1260-61; see also Local Rule 110. Plaintiff is also warned that a complaint which fails to comply
7 with Rule 8 may, in the court's discretion, be dismissed with prejudice pursuant to Rule 41(b).
8 See Nevijel v. North Coast Life Ins. Co., 651 F.2d 671, 673 (9th Cir. 1981); see also McHenry,
9 84 F.3d at 1175.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Plaintiff's amended complaint is dismissed with leave to amend; and
- 12 2. Plaintiff shall file an amended complaint, not to exceed 25 pages total, that
13 complies with the Federal Rules of Civil Procedure within 30 days of the date of service of this
14 order.

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16 DATED: May 17, 2017

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18 **CRAIG M. KELLISON**
19 UNITED STATES MAGISTRATE JUDGE
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