

1 In order to avoid dismissal for failure to state a claim a complaint must contain more than
2 “naked assertions,” “labels and conclusions” or “a formulaic recitation of the elements of a cause
3 of action.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-557 (2007). In other words,
4 “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory
5 statements do not suffice.” Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009). Furthermore, a claim
6 upon which the court can grant relief has facial plausibility. Twombly, 550 U.S. at 570. “A
7 claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw
8 the reasonable inference that the defendant is liable for the misconduct alleged.” Iqbal, 129 S. Ct.
9 at 1949. When considering whether a complaint states a claim upon which relief can be granted,
10 the court must accept the allegations as true, Erickson v. Pardus, 127 S. Ct. 2197, 2200 (2007),
11 and construe the complaint in the light most favorable to the plaintiff, see Scheuer v. Rhodes, 416
12 U.S. 232, 236 (1974).

13 The court finds the allegations in plaintiff’s complaint so vague and conclusory that it is
14 unable to determine whether the current action is frivolous or fails to state a claim for relief. The
15 court has determined that the complaint does not contain a short and plain statement as required
16 by Fed. R. Civ. P. 8(a)(2). Although the Federal Rules adopt a flexible pleading policy, a
17 complaint must give fair notice and state the elements of the claim plainly and succinctly. Jones
18 v. Community Redev. Agency, 733 F.2d 646, 649 (9th Cir. 1984). Plaintiff must allege with at
19 least some degree of particularity overt acts which defendants engaged in that support plaintiff’s
20 claim. Id. Because plaintiff has failed to comply with the requirements of Fed. R. Civ. P. 8(a)(2),
21 the complaint must be dismissed. The court will, however, grant leave to file a second amended
22 complaint.

23 If plaintiff chooses to amend the complaint, plaintiff must set forth the jurisdictional
24 grounds upon which the court’s jurisdiction depends. Federal Rule of Civil Procedure 8(a).
25 Further, plaintiff must demonstrate how the conduct complained of has resulted in a deprivation
26 of plaintiff’s federal rights. See Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980).

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1 The amended complaint sets forth allegations regarding incidents involving officers of the
2 Stockton Police Department. Some of the incidents involve plaintiff's children. Plaintiff was
3 previously advised that she may not proceed on her childrens' claims in propria persona.

4 The Civil Rights Act under which this action was filed provides as follows:

5 Every person who, under color of [state law] . . . subjects, or causes to be subjected, any citizen of
6 the United States . . . to the deprivation of any rights, privileges, or immunities secured by the
7 Constitution . . . shall be liable to the party injured in an action at law, suit in equity, or other
8 proper proceeding for redress. 42 U.S.C. § 1983. The statute requires that there be an actual
9 connection or link between the actions of the defendants and the deprivation alleged to have been
10 suffered by plaintiff. See Monell v. Department of Social Servs., 436 U.S. 658 (1978); Rizzo v.
11 Goode, 423 U.S. 362 (1976). "A person 'subjects' another to the deprivation of a constitutional
12 right, within the meaning of § 1983, if he does an affirmative act, participates in another's
13 affirmative acts or omits to perform an act which he is legally required to do that causes the
14 deprivation of which complaint is made." Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

15 Moreover, supervisory personnel are generally not liable under § 1983 for the actions of
16 their employees under a theory of respondeat superior and, therefore, when a named defendant
17 holds a supervisory position, the causal link between him and the claimed constitutional
18 violation must be specifically alleged. See Fayle v. Stapley, 607 F.2d 858, 862 (9th Cir. 1979);
19 Mosher v. Saalfeld, 589 F.2d 438, 441 (9th Cir. 1978), cert. denied, 442 U.S. 941 (1979). Vague
20 and conclusory allegations concerning the involvement of official personnel in civil rights
21 violations are not sufficient. See Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982).

22 Plaintiff is advised that in any amended complaint, she must set forth separate causes of
23 action and should not plead in one complaint incidents that are unrelated. In addition, if plaintiff
24 intends to pursue claims against a municipality, plaintiff must set forth facts alleging that local
25 government officials have intentionally violated plaintiff's constitutional rights, the violation was
26 part of policy or custom and was not an isolated incident, and that there is a link between the
27 specific policy or custom to the plaintiff's injury. See Monell v. Department of Social Servs., 436
28 U.S. 658, 690-92 (1978).

1 In addition, plaintiff is informed that the court cannot refer to a prior pleading in order to
2 make plaintiff's amended complaint complete. Local Rule 15-220 requires that an amended
3 complaint be complete in itself without reference to any prior pleading. This is because, as a
4 general rule, an amended complaint supersedes the original complaint. See Loux v. Rhay, 375
5 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended complaint, the original pleading no
6 longer serves any function in the case. Therefore, in an amended complaint, as in an
7 original complaint, each claim and the involvement of each defendant must be sufficiently
8 alleged.

9 In accordance with the above, IT IS HEREBY ORDERED that:

- 10 1. Plaintiff's amended complaint is dismissed; and
- 11 2. Plaintiff is granted thirty days from the date of service of this order to file a second
12 amended complaint that complies with the requirements of the Federal Rules of Civil Procedure,
13 and the Local Rules of Practice; the second amended complaint must bear the docket number
14 assigned this case and must be labeled "Second Amended Complaint"; plaintiff must file an
15 original and two copies of the second amended complaint; failure to file a second amended
16 complaint in accordance with this order will result in a recommendation that this action be
17 dismissed.

18 Dated: June 15, 2016

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21 CAROLYN K. DELANEY
22 UNITED STATES MAGISTRATE JUDGE

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