

1 Although pro se pleadings are liberally construed, *see Haines v. Kerner*, 404 U.S. 519,
2 520-21 (1972), a complaint, or portion thereof, should be dismissed for failure to state a claim if it
3 fails to set forth “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl.*
4 *Corp. v. Twombly*, 550 U.S. 544, 554, 562-563 (2007) (citing *Conley v. Gibson*, 355 U.S. 41
5 (1957)); *see also* Fed. R. Civ. P. 12(b)(6). “[A] plaintiff’s obligation to provide the ‘grounds’ of
6 his ‘entitlement to relief’ requires more than labels and conclusions, and a formulaic recitation of
7 a cause of action’s elements will not do. Factual allegations must be enough to raise a right to
8 relief above the speculative level on the assumption that all of the complaint’s allegations are
9 true.” *Id.* (citations omitted). Dismissal is appropriate based either on the lack of cognizable
10 legal theories or the lack of pleading sufficient facts to support cognizable legal theories.
11 *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990).

12 In reviewing a complaint under this standard, the court must accept as true the allegations
13 of the complaint in question, *Hospital Bldg. Co. v. Rex Hosp. Trustees*, 425 U.S. 738, 740 (1976),
14 construe the pleading in the light most favorable to the plaintiff, and resolve all doubts in the
15 plaintiff’s favor, *Jenkins v. McKeithen*, 395 U.S. 411, 421 (1969). A pro se plaintiff must satisfy
16 the pleading requirements of Rule 8(a) of the Federal Rules of Civil Procedure. Rule 8(a)(2)
17 requires a complaint to include “a short and plain statement of the claim showing that the pleader
18 is entitled to relief, in order to give the defendant fair notice of what the claim is and the grounds
19 upon which it rests.” *Twombly*, 550 U.S. at 555 (citing *Conley v. Gibson*, 355 U.S. 41 (1957)).

20 Additionally, a federal court is a court of limited jurisdiction, and may adjudicate only
21 those cases authorized by the Constitution and by Congress. *Kokkonen v. Guardian Life Ins. Co.*,
22 511 U.S. 375, 377 (1994). The basic federal jurisdiction statutes, 28 U.S.C. §§ 1331 & 1332,
23 confer “federal question” and “diversity” jurisdiction, respectively. Federal question jurisdiction
24 requires that the complaint (1) arise under a federal law or the U. S. Constitution, (2) allege a
25 “case or controversy” within the meaning of Article III, § 2 of the U. S. Constitution, or (3) be
26 authorized by a federal statute that both regulates a specific subject matter and confers federal
27 jurisdiction. *Baker v. Carr*, 369 U.S. 186, 198 (1962). To invoke the court’s diversity
28 jurisdiction, a plaintiff must specifically allege the diverse citizenship of all parties, and that the

1 matter in controversy exceeds \$75,000. 28 U.S.C. § 1332(a); *Bautista v. Pan American World*
2 *Airlines, Inc.*, 828 F.2d 546, 552 (9th Cir. 1987). A case presumably lies outside the jurisdiction
3 of the federal courts unless demonstrated otherwise. *Kokkonen*, 511 U.S. at 376-78. Lack of
4 subject matter jurisdiction may be raised at any time by either party or by the court. *Attorneys*
5 *Trust v. Videotape Computer Products, Inc.*, 93 F.3d 593, 594-95 (9th Cir. 1996).

6 Plaintiff brings this action against the California Victim Compensation Program, alleging
7 that defendant engaged in fraudulent conduct in connection with criminal proceedings brought
8 against plaintiff in state court. ECF No. 1. Plaintiff claims that his state court case was not taken
9 seriously and that defendant and the Hawthorne Police Department withheld evidence from the
10 state court. *Id.* at 4. He also appears to allege that as a result of defendant's conduct, he was
11 wrongfully convicted and is now homeless and unable to gain employment. *Id.* at 6.

12 The complaint fails to properly invoke this court's subject matter jurisdiction. Plaintiff
13 does not allege any specific claim, and it is not clear how the allegations in the complaint give
14 rise to a federal claim establishing jurisdiction pursuant to 28 U.S.C. § 1331. Further, plaintiff
15 diversity jurisdiction is absent. As noted above, to establish diversity jurisdiction plaintiff must
16 allege diverse citizenship of all parties. *Bautista*, 828 F.2d at 552. The complaint demonstrates
17 that all parties are citizens of California. ECF No. 1 at 2.

18 More significantly, the complaint indicates that plaintiff's claim(s) is barred by the
19 *Rooker-Feldman* doctrine. The *Rooker-Feldman* doctrine bars jurisdiction in federal district court
20 if the exact claims raised in a state court case are raised in the subsequent federal case, or if the
21 constitutional claims presented to the district court are "inextricably intertwined" with the state
22 court's denial of relief. *Bianchi v. Rylaarsdam*, 334 F.3d 895, 898-99 (9th Cir. 2003) (quoting
23 *Feldman*, 460 U.S. at 483 n. 16). *Rooker-Feldman* thus bars federal adjudication of any suit
24 where a plaintiff alleges an injury based on a state court judgment or directly appeals a state
25 court's decision. *Id.* at 900 n. 4.

26 The district court lacks subject matter jurisdiction either to conduct a direct review of a
27 state court judgment or to scrutinize the state court's application of various rules and procedures
28 pertaining to the state case. *Samuel v. Michaud*, 980 F. Supp. 1381, 1411-12 (D. Idaho 1996),

1 *aff'd*, 129 F.3d 127 (9th Cir. 1997); *see also Branson v. Nott*, 62 F.3d 287, 291-92 (9th Cir. 1995)
2 (finding no subject matter jurisdiction over section 1983 claim seeking, inter alia, implicit
3 reversal of state trial court action). “That the federal district court action alleges the state court’s
4 action was unconstitutional does not change the rule.” *Feldman*, 460 U.S. at 486. In sum, “a
5 state court’s application of its rules and procedures is unreviewable by a federal district court.
6 The federal district court only has jurisdiction to hear general challenges to state rules or claims
7 that are based on the investigation of a new case arising upon new facts.” *Samuel*, 980 F. Supp. at
8 1412-13.

9 The complaint alleges that defendant engaged in fraudulent conduct that led to plaintiff’s
10 criminal conviction in state court. Plaintiff claims that as a result of that conviction he is now
11 homeless and unable to obtain employment. Thus, plaintiff’s claims are a direct challenge to a
12 state court judgment, which this court is without jurisdiction to review. *Bianchi*, 334 F.3d at 900
13 n. 4.

14 Plaintiff has been previously notified by a different court that claims challenging the same
15 criminal conviction at issue in this action are barred by the *Rooker-Feldman* doctrine.
16 Attachments to the complaint show that plaintiff previously filed an action against the California
17 Victim Compensation Program and the former Chief of Police for the Hawthorn Police
18 Department in the United States District Court for the Central District of California. ECF No. 1
19 at 9-13. In that action, plaintiff alleged that the Hawthorn Police Chief falsified police reports,
20 which resulted in criminal sanctions against plaintiff and ultimately plaintiff becoming homeless.
21 *Id.* at 11. The district court therein found, among other things, that plaintiff’s claims were barred
22 by the *Rooker-Feldman* doctrine because his claims required review of the state court judgment.
23 *Id.* Thus, at the time plaintiff filed this case he had already been notified that the court lacked
24 jurisdiction over the action.

25 As the court is without jurisdiction over plaintiff’s claim(s), the complaint must be
26 dismissed without leave to amend. *See Noll v. Carlson*, 809 F.2d 1446, 1448 (9th Cir. 1987)
27 (While the court ordinarily would permit a pro se plaintiff leave to amend, leave to amend should
28 not be granted where it appears amendment would be futile).

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Accordingly, it is hereby ORDERED that plaintiff’s motion to proceed *in forma pauperis* (ECF No. 2) is granted.

Further, it is RECOMMENDED that plaintiff’s complaint be dismissed without leave to amend and the Clerk be directed to close this 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 13, 2017.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE