

1 Court will reproduce the allegations from the Complaint in their entirety:¹

2 Your Name = Charles Lewis Bobo = pro se

3 . . .

4 Jurisdiction = Katrinas Bobo Remain longterm fostercare

5 Allegations = Fresno Dept of Children and Family Service trying to
6 locate the father of a female child born on Dec 11, 1990 father
7 name Charles Bobo if you father notify me in writing or call by
8 telephone they found me didn't give me custody.

9 Allegations = file JV-180 Request to change court order Case
10 #02CEJ300179 County of Fresno Dependency Court discussed
11 Katrinas Permanent Plan Remain Longterm Fostercare.

12 Allegations = County of Fresno Dependency Court had a trust fund
13 in her name should be 110, 000 dollars in her trust fund.

14 Allegations = My daughter start receive SSI in 1995 she was
15 getting 515.00 mo when she turn 18 yrs old starting getting 950.00
16 mo

17 Relief = I want Court to grant me custody of my daughter and
18 500,000,000 million dollars for damage over 20 years and also
19 grant me her trust fund 120,000 dollars.

20 (ECF No. 1 at 1-2.)

21 A *pro se* plaintiff, like other litigants, must satisfy the pleading requirements of Federal
22 Rule of Civil Procedure 8(a). The magistrate judge correctly identifies the “minimum
23 requirements for a civil complaint in federal court” are contained in Rule 8(a). (ECF No. 3 at 3.)
24 Those requirements are that the complaint “must contain (1) a short and plain statement of the
25 grounds for the court’s jurisdiction . . . ; (2) a short and plain statement of the claim showing that
26 the pleader is entitled to relief; and (3) a demand for the relief sought” Fed. R. Civ. P. 8(a).

27 The Court agrees with the magistrate judge that Plaintiff has not included a “short and
28 plain statement of the grounds upon which the court’s jurisdiction depends.” (ECF No. 3 at 3.)
The Court adopts the magistrate judge’s analysis on this point. The Court reproduces that
analysis here:

The basic federal jurisdiction statutes are 28 U.S.C. §§ 1331 and

¹ The complaint is handwritten and contains a number of typographical and grammatical errors. However, inserting “sic” repeatedly would not be helpful.

1 1332, which confer “federal question” and “diversity” jurisdiction,
2 respectively. Federal jurisdiction may also be conferred by federal
3 statutes regulating specific subject matter. “[T]he existence of
4 federal jurisdiction depends solely on the plaintiff’s claims for relief
5 and not on anticipated defenses to those claims.” *ARCO Envtl.*
6 *Remediation, LLC v. Dep’t of Health & Envtl. Quality*, 213 F.3d
7 1108, 1113 (9th Cir. 2000).

8 District courts have diversity jurisdiction only over “all civil actions
9 where the matter in controversy exceeds the sum or value of
10 \$75,000, exclusive of interest and costs,” and the action is between:
11 “(1) citizens of different States; (2) citizens of a State and citizens
12 or subjects of a foreign state; (3) citizens of different States and in
13 which citizens or subjects of a foreign state are additional parties;
14 and (4) a foreign state . . . as plaintiff and citizens of a State or of
15 different States.” 28 U.S.C. § 1332. “To demonstrate citizenship
16 for diversity purposes a party must (a) be a citizen of the United
17 States, and (b) be domiciled in a state of the United States.” *Lew v.*
18 *Moss*, 797 F.2d 747, 749 (9th Cir. 1986). “Diversity jurisdiction
19 requires complete diversity between the parties—each defendant
20 must be a citizen of a different state from each plaintiff.” *In re*
21 *Digimarc Corp. Derivative Litigation*, 549 F.3d 1223, 1234 (9th
22 Cir. 2008).

23 (ECF No. 3 at 3.) Plaintiff’s complaint indicates that he and Defendant are citizens of California.
24 Consequently, Plaintiff has not shown this Court has “diversity” jurisdiction. Plaintiff also has
25 not shown there is “federal question” jurisdiction. He has neither identified any federal law that
26 he believes Defendant’s conduct has violated nor has he identified any federal law that confers
27 jurisdiction on this Court over his case. Therefore, the magistrate judge appropriately
28 recommended the complaint be screened for failing to comply with Rule 8(a)(1).

19 Rule 8(a)(2) requires that a complaint include “a short and plain statement of the claim
20 showing that the pleader is entitled to relief, in order to give the defendant fair notice of what the
21 . . . claim is and the grounds upon which it rests[.]” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 554,
22 562-563 (2007) (internal quotation marks and citation omitted). Here, Plaintiff has not identified
23 any law that he thinks has been broken. For this reason, the Court agrees with the magistrate
24 judge’s conclusion that the complaint fails to comply with Rule 8(a)(2).

25 However, the Court disagrees with the magistrate judge’s conclusion that Plaintiff should
26 not be granted leave to file an amended complaint. “[A] district court should grant leave to
27 amend even if no request to amend the pleading was made, unless it determines that the pleading
28 could not possibly be cured by the allegation of other facts.” *Lopez v. Smith*, 203 F.3d 1122, 1130

1 (9th Cir. 2000) (en banc). Quite frankly, the complaint is too sparse to conclusively determine
2 that it cannot be cured. Consequently, Plaintiff must be given the opportunity to file an amended
3 complaint.

4 If Plaintiff elects to file an amended complaint, it shall be captioned “First Amended
5 Complaint”; shall address the deficiencies outlined above; and shall be filed within 30 days of this
6 Order. Plaintiff is informed that the Court cannot refer to a prior complaint or other filing in
7 order to make Plaintiff’s first amended complaint complete. Local Rule 220 requires that an
8 amended complaint be complete in itself without reference to any prior pleading. As a general
9 rule, an amended complaint supersedes the original complaint, and once the first amended
10 complaint is filed, the original complaint no longer serves any function in the case.

11 Additionally, Plaintiff’s first amended complaint should also indicate the following
12 information, if he knows it: (i) whether his daughter has a disability or some other reason that
13 requires someone to have custody of or guardianship over her, (ii) if she does, who has custody of
14 or guardianship over his daughter, (iii) whether her custodian or guardian has control or custody
15 over her trust fund or account, (iv) where his daughter is staying, (v) who operates that location,
16 (vi) whether there is an active case or proceeding in the Fresno County Dependency Court
17 relating to his daughter’s custody or guardianship over her, (vii) if there is, the status of the case,
18 and (viii) if there is not, the outcome of the case, including any appeals. Also, Plaintiff must
19 specify his grounds for relief. Particularly, Plaintiff must specify the federal law or laws he
20 believes Defendant has violated. This includes violations of the Constitution of the United States.

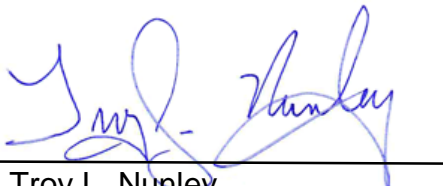
21 The magistrate judge concluded that “Plaintiff’s in forma pauperis application makes the
22 financial showing required by 28 U.S.C. § 1915(a)(1).” (ECF No. 3 at 2.) The Court agrees.
23 Consequently, the Court finds that Plaintiff’s application should be granted. It is true, as the
24 magistrate correctly notes, that “[a] district court *may* deny leave to proceed in forma pauperis at
25 the outset if it appears from the face of the proposed complaint that the action is frivolous or
26 without merit.” *Minetti v. Port of Seattle*, 152 F.3d 1113, 1115 (9th Cir. 1998) (emphasis added).
27 However, the Court declines to do so here, particularly, in light of the Court’s conclusion that
28 Plaintiff should be given leave to file an amended complaint.

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Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed April 4, 2017 (ECF No. 3), are not adopted, except as specifically identified above;
2. Plaintiff's September 30, 2016, application to proceed in forma pauperis (ECF No. 2) is granted;
3. Plaintiff's September 30, 2016, complaint (ECF No. 1) is dismissed with leave to amend; and
4. Plaintiff has 30 days from the date of this Order to file an amended complaint that complies with this Order.

Dated: August 16, 2017



Troy L. Nunley
United States District Judge