

1 P.”). The Federal Rules of Civil Procedure are available online at [www.uscourts.gov/rules-](http://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure)
2 [policies/current-rules-practice-procedure/federal-rules-civil-procedure](http://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure). Under the Federal Rules
3 of Civil Procedure, the complaint must contain (1) a “short and plain statement” of the basis for
4 federal jurisdiction (that is, the reason the case is filed in this court, rather than in a state court),
5 (2) a short and plain statement showing that plaintiff is entitled to relief (that is, who harmed the
6 plaintiff, and in what way), and (3) a demand for the relief sought. Fed. R. Civ. P. (“Rule”) 8(a).
7 Plaintiff’s claims must be set forth simply, concisely and directly. Rule 8(d)(1). Forms are
8 available to help pro se plaintiffs organize their complaint in the proper way. They are available
9 at the Clerk’s Office, 501 I Street, 4th Floor (Rm. 4-200), Sacramento, CA 95814, or online at
10 www.uscourts.gov/forms/pro-se-forms.

11 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.
12 Neitzke v. Williams, 490 U.S. 319, 325 (1989). In reviewing a complaint under this standard, the
13 court will (1) accept as true all of the factual allegations contained in the complaint, unless they
14 are clearly baseless or fanciful, (2) construe those allegations in the light most favorable to the
15 plaintiff, and (3) resolve all doubts in the plaintiff’s favor. See Neitzke, 490 U.S. at 327;
16 Erickson v. Pardus, 551 U.S. 89, 94 (2007); Von Saher v. Norton Simon Museum of Art at
17 Pasadena, 592 F.3d 954, 960 (9th Cir. 2010), cert. denied, 564 U.S. 1037 (2011); Hebbe v. Pliler,
18 627 F.3d 338, 340 (9th Cir. 2010). However, the court need not accept as true, legal conclusions
19 cast in the form of factual allegations, or allegations that contradict matters properly subject to
20 judicial notice. See Western Mining Council v. Watt, 643 F.2d 618, 624 (9th Cir. 1981);
21 Sprewell v. Golden State Warriors, 266 F.3d 979, 988 (9th Cir.), as amended, 275 F.3d 1187
22 (2001).

23 Pro se pleadings are held to a less stringent standard than those drafted by lawyers.
24 Haines v. Kerner, 404 U.S. 519, 520 (1972). Pro se complaints are construed liberally and may
25 only be dismissed if it appears beyond doubt that the plaintiff can prove no set of facts in support
26 of his claim which would entitle him to relief. Nordstrom v. Ryan, 762 F.3d 903, 908 (9th
27 Cir. 2014). A pro se litigant is entitled to notice of the deficiencies in the complaint and an

28 ///

1 opportunity to amend, unless the complaint’s deficiencies could not be cured by amendment. See
2 Noll v. Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987).

3 A. The Complaint

4 Plaintiff has named the U.S. Patent Office, U.S. Department of Commerce, U.S.
5 Department of the Treasury, the “Office of Management and Budget,” and the “Department of
6 Motor Vehicles California (Stockton, California DMV),” as the sole defendants in this lawsuit.
7 Complaint (ECF No. 1) at 1. The complaint alleges that it is brought under Articles I, III, IV and
8 VI of the U.S. Constitution, as well as the Fourth, Ninth, Tenth and Fourteenth Amendments
9 thereto, and state law.

10 It is very difficult to understand the meaning of the 95-page complaint, consisting of 56
11 pages of allegations plus 43 pages of interspersed exhibits. As best the court can tell, plaintiff is
12 complaining about an online application form or procedure for obtaining a patent. See Complaint
13 at 3-4.

14 B. Analysis

15 The complaint does not contain a “short and plain” statement setting forth the basis for
16 federal jurisdiction, plaintiff’s entitlement to relief, or the relief that is sought, even though those
17 things are required by Fed. R. Civ. P. 8(a)(1)-(3). The exact nature of what happened to plaintiff
18 is obscured by the incomprehensible complaint, which consists of impenetrable sentences,
19 passages from the U.S. and California Constitutions, what appear to be citations from statutes,
20 regulations, forms and correspondence, legal conclusions or assertions, and other materials that
21 appear to have been added, at random, to the complaint. Moreover, the complaint is written as
22 one 56-page paragraph, making it particularly difficult to understand. The court cannot tell from
23 examining the complaint what legal wrong was done to plaintiff, by whom and when, or what
24 relief plaintiff seeks.

25 In addition, the only defendants named in this lawsuit are immune from suit. The federal
26 agencies plaintiff sues are immune from suit. FDIC v. Meyer, 510 U.S. 471, 475 (1994)
27 (“[a]bsent a waiver, sovereign immunity shields the Federal Government and its agencies from
28 suit”). If the complaint contains an allegation that this immunity is waived, the court cannot find

1 it in the complaint. In any amended complaint, any alleged waiver must be clearly and separately
2 alleged.

3 The state agency plaintiff sues is also immune from suit in this court. See Braunstein v.
4 Arizona Dep't of Transp., 683 F.3d 1177, 1188 (9th Cir. 2012) (citing Pennhurst State Sch. &
5 Hosp. v. Halderman, 465 U.S. 89, 100-102 (1984), for the proposition that “sovereign immunity
6 extends to state agencies and to damage claims against state officials acting in their official
7 capacity”). The court can identify no alleged waiver of sovereign immunity, nor any basis for
8 overriding it, in the complaint.

9 II. AMENDING THE COMPLAINT

10 If plaintiff chooses to amend the complaint, the amended complaint must allege facts
11 establishing the existence of federal jurisdiction. In addition, it must contain a short and plain
12 statement of plaintiff’s claims. The allegations of the complaint must be set forth in sequentially
13 numbered paragraphs, with each paragraph number being one greater than the one before, each
14 paragraph having its own number, and no paragraph number being repeated anywhere in the
15 complaint. Each paragraph should be limited “to a single set of circumstances” where
16 possible. Rule 10(b). As noted above, forms are available to help plaintiffs organize their
17 complaint in the proper way. They are available at the Clerk’s Office, 501 I Street, 4th Floor
18 (Rm. 4-200), Sacramento, CA 95814, or online at www.uscourts.gov/forms/pro-se-forms.

19 Plaintiff must avoid excessive repetition of the same allegations. Plaintiff must avoid
20 narrative and storytelling. That is, the complaint should not include every detail of what
21 happened, nor recount the details of conversations (unless necessary to establish the claim), nor
22 give a running account of plaintiff’s hopes and thoughts. Rather, the amended complaint should
23 contain only those facts needed to show how the defendant legally wronged the plaintiff.

24 The amended complaint must not force the court and the defendants to guess at what is
25 being alleged against whom. See McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996)
26 (affirming dismissal of a complaint where the district court was “literally guessing as to what
27 facts support the legal claims being asserted against certain defendants”). The amended
28 complaint must not require the court to spend its time “preparing the ‘short and plain statement’

1 which Rule 8 obligated plaintiffs to submit.” Id. at 1180. The amended complaint must not
2 require the court and defendants to prepare lengthy outlines “to determine who is being sued for
3 what.” Id. at 1179.


4 Also, the amended complaint must not refer to a prior pleading in order to make plaintiff’s
5 amended complaint complete. An amended complaint must be complete in itself without
6 reference to any prior pleading. Local Rule 220. This is because, as a general rule, an amended
7 complaint supersedes the original complaint. See Pacific Bell Tel. Co. v. Linkline
8 Communications, Inc., 555 U.S. 438, 456 n.4 (2009) (“[n]ormally, an amended complaint
9 supersedes the original complaint”) (citing 6 C. Wright & A. Miller, Federal Practice &
10 Procedure § 1476, pp. 556-57 (2d ed. 1990)). Therefore, in an amended complaint, as in an
11 original complaint, each claim and the involvement of each defendant must be sufficiently
12 alleged.

13 III. CONCLUSION

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. Plaintiff’s request to proceed in forma pauperis (ECF No. 2) is GRANTED.
- 16 2. The complaint (ECF No. 1), is DISMISSED because it does not contain the short and
17 plain statement of the claim required by Rule 8(a), and because it names only defendants
18 who are immune from suit.
- 19 3. Plaintiff shall have 30 days from the date of this order to file an amended complaint that
20 names defendants who are amenable to suit, and which complies with the instructions
21 given above. If plaintiff fails to timely comply with this order, the undersigned may
22 recommend that this action be dismissed.

23 DATED: November 28, 2016

24 
25 ALLISON CLAIRE
26 UNITED STATES MAGISTRATE JUDGE
27
28