

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 Under this standard, the court must accept as true the allegations of the complaint in
13 question, *Hospital Bldg. Co. v. Rex Hosp. Trustees*, 425 U.S. 738, 740 (1976), construe the
14 pleading in the light most favorable to the plaintiff, and resolve all doubts in the plaintiff’s favor,
15 *Jenkins v. McKeithen*, 395 U.S. 411, 421 (1969). A pro se plaintiff must satisfy the pleading
16 requirements of Rule 8(a) of the Federal Rules of Civil Procedure. Rule 8(a)(2) requires a
17 complaint to include “a short and plain statement of the claim showing that the pleader is entitled
18 to relief, in order to give the defendant fair notice of what the claim is and the grounds upon
19 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 Equifax Credit Information Solutions (“Equifax”) and
7 its Chief Executive Officer, Richard F. Smith, alleging claims for violation of the Fair Credit
8 Reporting Act (“FCRA”). ECF No. 1. His complaint alleges that Equifax issued a consumer
9 credit report for plaintiff that included inaccurate information regarding an account with the
10 Social Security Administration. *Id.* at 6. Plaintiff notified Equifax that he disputed the
11 information provided on the credit report. Although Equifax subsequently informed the
12 “furnishers of information of plaintiff’s disputes,” the “information continued to be reported on
13 plaintiff’s credit report.” *Id.* Plaintiff alleges causes of action for willful and negligent
14 noncompliance with the FCRA based on defendants alleged failure to comply with 15 U.S.C.
15 §§ 1681e(b), 1681i, 1681g. *Id.*

16 The complaint’s allegations are too vague and conclusory to state a claim for violation of
17 the FCRA. “In order to make out a prima facie violation under § 1681e(b), a consumer must
18 present evidence tending to show that a credit reporting agency prepared a report containing
19 inaccurate information. The FCRA does not impose strict liability, however—an agency can
20 escape liability if it establishes that an inaccurate report was generated despite the agency’s
21 following reasonable procedures.” *Guimond v. Trans Union Credit Info. Co.*, 45 F.3d 1329, 1333
22 (9th Cir.1995) (citations omitted). 15 U.S.C. 1681i requires credit reporting agencies to
23 reinvestigate the completeness or accuracy of an item of information when notified of a dispute
24 by the consumer. 15 U.S.C. § 1681i (1)(A). Like section 1681e(b), section 1681i requires a
25 plaintiff to make a “prima facie showing of inaccurate reporting.” *Dennis v. BEH-1, LLC*, 520
26 F.3d 1066, 1069 (9th Cir. 2008). Under the FCRA, information can be inaccurate either “because
27 it is patently incorrect, or because it is misleading in such a way and to such an extent that it can
28 be expected to adversely affect credit decisions.” *Gorman v. Wolpoff & Abramson, LLP*, 584

1 F.3d 1147, 1163 (9th Cir. 2009); *see Prianto v. Experian Info. Solutions, Inc.*, No. CV 13–03461–
2 TEH, 2014 WL 3381578, *3 (N.D. Cal. July 10, 2014) (“Thus, Plaintiff must allege facts
3 sufficient to state a claim that a CRA published a report containing patently inaccurate or
4 materially misleading information in order to state a prima facie case for relief under sections
5 1681e(b) and 1681i(1)(A).”).

6 Here, plaintiff merely provides her conclusion that defendants failed to comply with 15
7 U.S.C. §§ 1681e(b) and 1681i by reporting and failing to correct inaccurate information on her
8 credit report. Such conclusory allegations fail to provide defendant notice of the basis for her
9 claims, and therefore fail to state a claim for relief. *Twombly*, 550 U.S. at 562-563. Likewise,
10 plaintiff fails to state a claim for violation of the FCRA premised on a failure to comply with
11 § 1681g. That section governs disclosures of information by consumer reporting agencies to
12 consumers, *see* 15 U.S.C. § 1681g, but the complaint is devoid of any allegations suggesting that
13 defendants failed to follow the disclosure procedures mandated by the FCRA.

14 Accordingly, plaintiff’s complaint must be dismissed for failure to state a claim. Plaintiff
15 is granted leave to file an amended complaint to allege, if she can, a cognizable legal theory
16 against a proper defendant and sufficient facts in support of that cognizable legal theory. *Lopez v.*
17 *Smith*, 203 F.3d 1122, 1126-27 (9th Cir. 2000) (en banc) (district courts must afford pro se
18 litigants an opportunity to amend to correct any deficiency in their complaints). Should plaintiff
19 choose to file an amended complaint, the amended complaint shall clearly set forth the allegations
20 against defendant and shall specify a basis for this court’s subject matter jurisdiction. Any
21 amended complaint shall plead plaintiff’s claims in “numbered paragraphs, each limited as far as
22 practicable to a single set of circumstances,” as required by Federal Rule of Civil Procedure
23 10(b), and shall be in double-spaced text on paper that bears line numbers in the left margin, as
24 required by Eastern District of California Local Rules 130(b) and 130(c). Any amended
25 complaint shall also use clear headings to delineate each claim alleged and against which
26 defendant or defendants the claim is alleged, as required by Rule 10(b), and must plead clear facts
27 that support each claim under each header.

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1 Additionally, plaintiff is informed that the court cannot refer to prior pleadings in order to
2 make an amended complaint complete. Local Rule 220 requires that an amended complaint be
3 complete in itself. This is because, as a general rule, an amended complaint supersedes the
4 original complaint. *See Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir. 1967). Accordingly, once
5 plaintiff files an amended complaint, the original no longer serves any function in the case.
6 Therefore, “a plaintiff waives all causes of action alleged in the original complaint which are not
7 alleged in the amended complaint,” *London v. Coopers & Lybrand*, 644 F.2d 811, 814 (9th Cir.
8 1981), and defendants not named in an amended complaint are no longer defendants. *Ferdik v.*
9 *Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992). Finally, the court cautions plaintiff that failure to
10 comply with the Federal Rules of Civil Procedure, this court’s Local Rules, or any court order
11 may result in a recommendation that this action be dismissed. *See* E.D. Cal. L.R. 110.

12 Accordingly, IT IS ORDERED that:

- 13 1. Plaintiff’s request for leave to proceed *in forma pauperis* (ECF No. 2) is granted.
- 14 2. Plaintiff’s complaint is dismissed with leave to amend, as provided herein.
- 15 3. Plaintiff is granted thirty days from the date of service of this order to file an amended
16 complaint. The amended complaint must bear the docket number assigned to this case and must
17 be labeled “First Amended Complaint.” Failure to timely file an amended complaint in
18 accordance with this order will result in a recommendation this action be dismissed.

19 DATED: January 9, 2018.

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21 EDMUND F. BRENNAN
22 UNITED STATES MAGISTRATE JUDGE
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