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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

KRZYSZTOF F. WOLINSKI,  
Plaintiff,  
v.  
J. LEWIS, et al.,  
Defendants.

No. 2:17-cv-00583 MCE AC P

ORDER

Defendants removed this action from the San Joaquin County Superior Court on March 17, 2017.<sup>1</sup> ECF No. 2. Attached to their notice of removal was a copy of plaintiff’s complaint. Id. at 6. Plaintiff is a state prisoner and, pursuant to 28 U.S.C. § 1915A, defendants now request that the court screen his complaint and dismiss any claims that are frivolous, malicious, or which fail to state a cognizable claim. ECF No. 2 at 4. After reviewing plaintiff’s complaint, the court concludes that it fails to comply with the federal rules of civil procedure. Plaintiff will be given leave to amend his complaint.

I. Screening Requirements

The court is required to screen complaints brought by prisoners seeking relief against a

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<sup>1</sup> Plaintiff filed a motion to remand (ECF No. 12) and, on September 8, 2017, the court recommended that his motion be denied (ECF No. 14). The court’s recommendations are currently pending before the district judge.

1 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The  
2 screening obligation applies where a complaint is removed from state court. See, e.g., Morris v.  
3 Horel, 2008 U.S. Dist. LEXIS 56938, 2008 WL 686874, \*1 (N.D. Cal., March 12, 2008)  
4 (screening civil rights action removed from state court pursuant to Section 1915A). The court  
5 must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally  
6 “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek  
7 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2).

8 A claim “is [legally] frivolous where it lacks an arguable basis either in law or in fact.”  
9 Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th  
10 Cir. 1984). “[A] judge may dismiss [in forma pauperis] claims which are based on indisputably  
11 meritless legal theories or whose factual contentions are clearly baseless.” Jackson v. Arizona,  
12 885 F.2d 639, 640 (9th Cir. 1989) (citation and internal quotations omitted), superseded by statute  
13 on other grounds as stated in Lopez v. Smith, 203 F.3d 1122, 1130 (9th Cir. 2000); Neitzke, 490  
14 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully pleaded,  
15 has an arguable legal and factual basis. Id.

16 “Federal Rule of Civil Procedure 8(a)(2) requires only ‘a short and plain statement of the  
17 claim showing that the pleader is entitled to relief,’ in order to ‘give the defendant fair notice of  
18 what the . . . claim is and the grounds upon which it rests.’” Bell Atl. Corp. v. Twombly, 550  
19 U.S. 544, 555 (2007) (alteration in original) (quoting Conley v. Gibson, 355 U.S. 41, 47 (1957)).  
20 However, in order to survive dismissal for failure to state a claim, a complaint must contain more  
21 than “a formulaic recitation of the elements of a cause of action;” it must contain factual  
22 allegations sufficient “to raise a right to relief above the speculative level.” Id. (citations  
23 omitted). “[T]he pleading must contain something more . . . than . . . a statement of facts that  
24 merely creates a suspicion [of] a legally cognizable right of action.” Id. (alteration in original)  
25 (quoting 5 Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure § 1216 (3d  
26 ed. 2004)).

27 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to  
28 relief that is plausible on its face.’” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell

1 Atl. Corp., 550 U.S. at 570). “A claim has facial plausibility when the plaintiff pleads factual  
2 content that allows the court to draw the reasonable inference that the defendant is liable for the  
3 misconduct alleged.” Id. (citing Bell Atl. Corp., 550 U.S. at 556). In reviewing a complaint  
4 under this standard, the court must accept as true the allegations of the complaint in question,  
5 Hospital Bldg. Co. v. Rex Hosp. Trs., 425 U.S. 738, 740 (1976), as well as construe the pleading  
6 in the light most favorable to the plaintiff and resolve all doubts in the plaintiff’s favor, Jenkins v.  
7 McKeithen, 395 U.S. 411, 421 (1969).

8 II. Analysis

9 At the outset, the court notes that plaintiff’s complaint, despite having been removed from  
10 state court, is now subject to the federal rules of civil procedure. See Fed. R. Civ. P. 81(c)(1)  
11 (“These rules apply to a civil action once it is removed from state court.”). Plaintiff’s complaint  
12 runs to approximately two-hundred and thirty pages (ECF No. 2 at 6-237) and is largely  
13 comprised of various medical, disciplinary, and grievance records. He does not explain how most  
14 of these records are directly relevant to his claims. Instead, he categorizes them beneath general  
15 headings like “Continuous Deliberate Suppression of Exculpatory Evid., Exonerating Plaintiff  
16 from RVR 115.” Id. at 12. The court is able to discern that plaintiff is challenging: (1) his  
17 confinement in the Special Housing Unit, on state and federal due process grounds (id. at 9); (2)  
18 denial of access to the prison grievance procedure, on state and federal due process grounds (id. at  
19 10); and (3) at least one violation of the Americans with Disabilities Act (id. at 12, 227).

20 Plaintiff’s complaint does not comply with Fed. R. Civ. P. 8(a)(2) insofar as it does not  
21 provide a short and plain statement which gives fair notice of his claims to the defendants. The  
22 various documents attached to the complaint, while suitable to support or contextualize clearly  
23 stated claims, cannot act as a substitute for those claims. See Davis v. Carlton, 2013 U.S. Dist.  
24 LEXIS 174334, \*18 n. 1, 2013 WL 6512903 (E.D. Cal. Dec. 12, 2013) (“The Court will not comb  
25 through attached exhibits seeking to determine whether a claim possibly could have been stated  
26 where the pleading itself does not state a claim.”). The overall length and lack of organizational  
27 clarity in the complaint also convince the court that amendment is necessary if this action is to  
28 proceed.

1           Additionally, plaintiff’s complaint appears to state unrelated claims against multiple  
2 defendants. Federal Rule of Civil Procedure 20(a)(2) requires that the right to relief against  
3 multiple defendants arise out of common events and contain common questions of law or fact.  
4 The court is unable to discern any common questions of law or fact between plaintiff’s various  
5 claims. In the event that plaintiff names multiple defendants in his amended complaint, he should  
6 bring only related claims against them. See George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007)  
7 (holding that “[u]nrelated claims against different defendants belong in different suits.”).

8           III.    Leave to Amend

9           Plaintiff may choose to amend his complaint. He is cautioned that any amended  
10 complaint must identify as a defendant only persons who personally participated in a substantial  
11 way in depriving him of his constitutional rights. Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir.  
12 1978) (a person subjects another to the deprivation of a constitutional right if he does an act,  
13 participates in another’s act or omits to perform an act he is legally required to do that causes the  
14 alleged deprivation). Plaintiff may also include any allegations based on state law that are so  
15 closely related to his federal allegations that “they form the same case or controversy.” See 28  
16 U.S.C. § 1367(a).

17           The amended complaint must also contain a caption including the names of all defendants.  
18 Fed. R. Civ. P. 10(a).

19           Plaintiff may not change the nature of this suit by alleging new, unrelated claims. George,  
20 507 F.3d at 607. Nor, as explained above, may he bring unrelated claims against multiple  
21 defendants. Id.

22           Any amended complaint must be written or typed so that it so that it is complete in itself  
23 without reference to any earlier filed complaint. E.D. Cal. L.R. 220. This is because an amended  
24 complaint supersedes any earlier filed complaint, and once an amended complaint is filed, the  
25 earlier filed complaint no longer serves any function in the case. See Forsyth v. Humana, 114  
26 F.3d 1467, 1474 (9th Cir. 1997) (the “‘amended complaint supersedes the original, the latter  
27 being treated thereafter as non-existent.’”) (quoting Loux v. Rhay, 375 F.2d 55, 57 (9th Cir.  
28 1967)).

1 Any amended complaint should be as concise as possible in fulfilling the above  
2 requirements. Fed. R. Civ. P. 8(a). Plaintiff should avoid the inclusion of procedural or factual  
3 background which has no bearing on his legal claims. He should also take pains to ensure that his  
4 amended complaint is as legible as possible. This refers not only to penmanship, but also spacing  
5 and organization. Plaintiff should carefully consider whether each of the defendants he names  
6 actually had involvement in the constitutional violations he alleges. A “scattershot” approach in  
7 which plaintiff names dozens of defendants will not be looked upon favorably by the court.

8 IV. Summary of the Order for a Pro Se Litigant

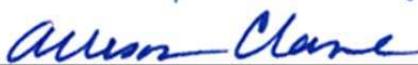
9 Your complaint is being dismissed with leave to amend. The court has concluded that the  
10 current complaint does not give a short, plain statement of your claims. It also concludes that  
11 you’ve tried to bring multiple, unrelated claims against more than one defendant. You are being  
12 given an opportunity to amend your complaint. If you choose to do so, your complaint should  
13 comply with the requirements of this order. Most importantly, your complaint should explain in  
14 clear, short statements how your rights have been violated and how each of the named defendants  
15 was involved in those violations.

16 V. Conclusion

17 The court notes that, although plaintiff’s complaint is on the record as an attachment to the  
18 notice of removal (ECF No. 2), it has not actually been docketed as a free standing filing. In light  
19 of the foregoing, the court will not direct the clerk of court to do so. Instead, it is ORDERED  
20 that:

- 21 1. Plaintiff must submit an amended complaint that complies with the requirements  
22 of this order within thirty days; and
- 23 2. He is cautioned that failure to comply with this order may result in dismissal of  
24 this action for failure to prosecute.

25 DATED: September 8, 2017

26   
27 ALLISON CLAIRE  
28 UNITED STATES MAGISTRATE JUDGE