

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 Here, plaintiff's complaint must be dismissed for lack of jurisdiction. The complaint
7 challenges the dismissal of several cases plaintiff has filed in this district. *See generally* ECF No.
8 1. Specifically, plaintiff takes issue with the court's handling of five cases she filed in this
9 district, claiming that the actions should not have been dismissed without first requiring the
10 named defendants to appear and file responses to plaintiff's complaints. *Id.* at 5-7.

11 "This Court has no authority to 'intercede' in Plaintiff's Eastern District cases, or to
12 review or overturn a decision rendered by another federal" court. *Pierce v. Obama*, 2014 WL
13 4959062, at *2 n.2 (S.D. Cal. Aug. 19, 2014) (citing *In re McBryde*, 117 F.3d 208, 223, 225-26
14 & n. 11 (5th Cir.1997) ("[T]he structure of the federal courts does not allow one judge of a
15 district court to rule directly on the legality of another district judge's judicial acts or to deny
16 another district judge his or her lawful jurisdiction."); *see also Mullis v. U.S. Bankr. Ct. of*
17 *Nevada*, 828 F.2d 1385, 1393 (9th Cir. 1987) ("A district court lacks authority to issue a writ of
18 mandamus to another district court."). Instead, plaintiff must seek review of any final order from
19 the United States Court of Appeals for the Ninth Circuit. *See* 28 U.S.C. § 1291 (providing that
20 the courts of appeal "have jurisdiction of appeals from all final decisions of the district courts of
21 the United States.").

22 Because the court lacks jurisdiction to review the decisions entered in plaintiff's other
23 cases, plaintiff's complaint must be dismissed without leave to amend. *See Noll v. Carlson*, 809
24 F.2d 1446, 1448 (9th Cir. 1987) (While the court ordinarily would permit a pro se plaintiff leave
25 to amend, leave to amend should not be granted where it appears amendment would be futile).

26 Accordingly, it is hereby ORDERED that plaintiff's request for leave to proceed *in forma*
27 *pauperis* (ECF Nos. 2, 4) is granted.

28 ////

1 Further, it is RECOMMENDED that plaintiff's complaint be dismissed without leave to
2 amend and the Clerk be directed to close the case.

3 These findings and recommendations are submitted to the United States District Judge
4 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
5 after being served with these findings and recommendations, any party may file written
6 objections with the court and serve a copy on all parties. Such a document should be captioned
7 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections
8 within the specified time may waive the right to appeal the District Court's order. *Turner v.*
9 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

10 DATED: April 24, 2018.

11 
12 EDMUND F. BRENNAN
13 UNITED STATES MAGISTRATE JUDGE
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28