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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TONYA ENGELBRECHT,  
Plaintiff,  
v.  
KERN COUNTY TAX ASSESSOR,  
Defendant.

No. 2:17-cv-01229 KJM AC (PS)

ORDER

Plaintiff is proceeding in this action pro se. This matter was accordingly referred to the undersigned by E.D. Cal. 302(c)(21). Plaintiff has filed a request for leave to proceed in forma pauperis (“IFP”) pursuant to 28 U.S.C. § 1915, and has submitted the affidavit required by that statute. See 28 U.S.C. § 1915(a)(1). The motion to proceed IFP will therefore be granted.

I. SCREENING

Granting IFP status does not end the court’s inquiry. The federal IFP statute requires federal courts to dismiss a case if the action is legally “frivolous or malicious,” fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2).

Plaintiff must assist the court in determining whether the complaint is frivolous or not, by drafting the complaint so that it complies with the Federal Rules of Civil Procedure (“Fed. R. Civ. P.”). The Federal Rules of Civil Procedure are available online at [www.uscourts.gov/rules-](http://www.uscourts.gov/rules-)

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

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

22 Pro se pleadings are held to a less stringent standard than those drafted by lawyers.  
23 Haines v. Kerner, 404 U.S. 519, 520 (1972). Pro se complaints are construed liberally and may  
24 only be dismissed if it appears beyond doubt that the plaintiff can prove no set of facts in support  
25 of his claim which would entitle him to relief. Nordstrom v. Ryan, 762 F.3d 903, 908 (9th  
26 Cir. 2014). A pro se litigant is entitled to notice of the deficiencies in the complaint and an  
27 opportunity to amend, unless the complaint’s deficiencies could not be cured by amendment. See  
28 Noll v. Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987).



1 possible. Rule 10(b). As noted above, forms are available to help plaintiffs organize their  
2 complaint in the proper way. They are available at the Clerk’s Office, 501 I Street, 4th Floor  
3 (Rm. 4-200), Sacramento, CA 95814, or online at [www.uscourts.gov/forms/pro-se-forms](http://www.uscourts.gov/forms/pro-se-forms).

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

9 The amended complaint must not force the court and the defendants to guess at what is  
10 being alleged against whom. See McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996)  
11 (affirming dismissal of a complaint where the district court was “literally guessing as to what  
12 facts support the legal claims being asserted against certain defendants”). The amended  
13 complaint must not require the court to spend its time “preparing the ‘short and plain statement’  
14 which Rule 8 obligated plaintiffs to submit.” Id. at 1180. The amended complaint must not  
15 require the court and defendants to prepare lengthy outlines “to determine who is being sued for  
16 what.” Id. at 1179.

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

### 26 III. PRO SE PLAINTIFF’S SUMMARY

27 Plaintiff’s complaint is being dismissed because (1) she cannot bring a private lawsuit for  
28 the criminal prosecution of another person, and (2) she fails to tell the court what was done to her,


1 by whom, and how she was harmed. Plaintiff has 30 days to file an amended complaint that  
2 meets the requirements described above. If plaintiff does not file an amended complaint within  
3 this timeframe, her case may be dismissed.

4 IV. CONCLUSION

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. Plaintiff's request to proceed in forma pauperis (ECF No. 2) is GRANTED.  
7 2. The complaint (ECF No. 1), is DISMISSED because it fails to make allegations that  
8 demonstrate plaintiff can make a legal claim that can be heard by this court.  
9 3. Plaintiff shall have 30 days from the date of this order to file an amended complaint that  
10 names defendants who are amenable to suit, and which complies with the instructions  
11 given above. If plaintiff fails to timely comply with this order, the undersigned may  
12 recommend that this action be dismissed.

13 DATED: June 16, 2017

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15 ALLISON CLAIRE  
16 UNITED STATES MAGISTRATE JUDGE  
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