


1 liability. Id. at 11-12. In interpreting judicial immunity, the Ninth Circuit has distinguished
2 between acts “in excess of jurisdiction” and acts “in the clear absence of jurisdiction” by looking
3 to the subject-matter jurisdiction of the judge: “[a] clear absence of all jurisdiction means a clear
4 lack of all subject matter jurisdiction.” Miller v. Davis, 521 F.3d 1142, 1147 (9th Cir. 2008).
5 Plaintiff alleges that Judges Downs and Schoob issued unlawful orders in a child custody matter,
6 and that Judge Downs issued an unlawful bench warrant for plaintiff’s arrest. ECF No. 1 at 3-4;
7 ECF No. 5 at 3-4. These allegations do not demonstrate judicial action in clear absence of all
8 jurisdiction. On the contrary, the allegations involve the actions of judges in performance of their
9 judicial duties, and therefore present a paradigmatic case for judicial immunity.

10 Having reviewed plaintiff’s initial complaint and her amended complaint, the undersigned
11 has determined that further opportunity to amend would be futile. Plaintiff’s only allegations are
12 against judicially immune defendants, and neither the original complaint nor the amended
13 complaint suggests the existence of any facts that might support a potentially cognizable claim.
14 Where amendment would be futile, a complaint may be dismissed without leave to amend. See
15 McQuillion v. Schwarzenegger, 369 F.3d 1091, 1099 (9th Cir. 2004).

16 Therefore, IT IS HEREBY RECOMMENDED that this action be dismissed, without
17 prejudice, for failure to comply with the court’s order and failure to name defendants who are not
18 immune from suit. See Fed. R. Civ. P. 41(b).

19 These findings and recommendations are submitted to the United States District Judge
20 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one
21 (21) days after being served with these findings and recommendations, plaintiff may file written
22 objections with the court. Such document should be captioned “Objections to Magistrate Judge’s
23 Findings and Recommendations.” Local Rule 304(b). Plaintiff is advised that failure to file
24 objections within the specified time may waive the right to appeal the District Court’s order.
25 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

26 DATED: July 24, 2017

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28 ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE