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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSE DEJESUS RODRIGUEZ,  
Plaintiff,  
v.  
JOYCE SAMPSON,  
Defendants.

No. 2:17-cv-1479 GEB 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 STANDARDS

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 or not the complaint is frivolous, by drafting the complaint so that it complies with the Federal Rules of Civil Procedure (“Fed. R. Civ. P.”). Under the Federal Rules of Civil Procedure, the complaint must contain (1) a “short and plain statement” of the basis for federal jurisdiction

1 (that is, the reason the case is filed in this court, rather than in a state court), (2) a short and plain  
2 statement showing that plaintiff is entitled to relief (that is, who harmed the plaintiff, and in what  
3 way), and (3) a demand for the relief sought. Fed. R. Civ. P. (“Rule”) 8(a). Plaintiff’s claims  
4 must be set forth simply, concisely and directly. Rule 8(d)(1).

5 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.  
6 Neitzke v. Williams, 490 U.S. 319, 325 (1989). In reviewing a complaint under this standard, the  
7 court will (1) accept as true all of the factual allegations contained in the complaint, unless they  
8 are clearly baseless or fanciful, (2) construe those allegations in the light most favorable to the  
9 plaintiff, and (3) resolve all doubts in the plaintiff’s favor. See Neitzke, 490 U.S. at 327; Von  
10 Saher v. Norton Simon Museum of Art at Pasadena, 592 F.3d 954, 960 (9th Cir. 2010), cert.  
11 denied, 564 U.S. 1037 (2011).

12 The court applies the same rules of construction in determining whether the complaint  
13 states a claim on which relief can be granted. Erickson v. Pardus, 551 U.S. 89, 94 (2007) (court  
14 must accept the allegations as true); Scheuer v. Rhodes, 416 U.S. 232, 236 (1974) (court must  
15 construe the complaint in the light most favorable to the plaintiff). Pro se pleadings are held to a  
16 less stringent standard than those drafted by lawyers. Haines v. Kerner, 404 U.S. 519, 520  
17 (1972). However, the court need not accept as true conclusory allegations, unreasonable  
18 inferences, or unwarranted deductions of fact. Western Mining Council v. Watt, 643 F.2d 618,  
19 624 (9th Cir. 1981). A formulaic recitation of the elements of a cause of action does not suffice  
20 to state a claim. Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-57 (2007); Ashcroft v. Iqbal,  
21 556 U.S. 662, 678 (2009). To state a claim on which relief may be granted, the plaintiff must  
22 allege enough facts “to state a claim to relief that is plausible on its face.” Twombly, 550 U.S. at  
23 570. “A claim has facial plausibility when the plaintiff pleads factual content that allows the  
24 court to draw the reasonable inference that the defendant is liable for the misconduct alleged.”  
25 Iqbal, 556 U.S. at 678.

26 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 II. THE COMPLAINT

2 Plaintiff names “Joyce Sampson, or Jane Doe, the unknown-named supervisor of San  
3 Joaquin County Human Services Agency” as the sole defendant in this lawsuit. ECF No. 1 at 1.  
4 The complaint alleges violations of the “American with Disabilities Act, 42 U.S.C. §12101, et.  
5 seq. (“ADA”), Section 504 of the Rehabilitation Act of 1973, as amended, at 29 U.S.C. §794 (the  
6 “Rehabilitation Act”), and the Persons with Disabilities Civil Rights Acts, M.C.L. §37.1101, et.  
7 seq. (“PDCRA”),” as well as 42 U.S.C. §§ 1983, 1985, and 1986. ECF No. 1 at 1 ¶1. These  
8 statutes are asserted as the basis for federal question jurisdiction. *Id.* at 1 ¶2.

9 As best as the court can determine, plaintiff seems to be alleging a wrongful denial of  
10 Medi-Cal services for long term care related to his “lower-back spinal injuries,” “left for-arm and  
11 elbow,” and “dental operations including the need for implants.” *Id.* at 3 ¶¶10, 12, 13. Plaintiff  
12 states his benefits were terminated without due process, alleging defendant “acted under color of  
13 law” in order to deprive him of his “federal rights, property interests and otherwise discriminated  
14 against plaintiff based upon his disability.” *Id.* at 3-5 ¶¶ 14-21. As “relief,” plaintiff requests  
15 “compensatory,” “punitive,” and injunctive relief. *Id.* at 5.

16 The complaint does not contain a “short and plain” statement showing that plaintiff is  
17 entitled to relief (that is, who harmed the plaintiff, and in what way) as required by Rule 8(a)(2).  
18 Although the complaint suggests that plaintiff may be attempting to assert a claim for denial of  
19 Medi-Cal benefits, it is unclear exactly what happened to plaintiff. The gravamen of the  
20 complaint is obscured by unclear sentences, and passages of statutory and regulatory language  
21 that are not clearly linked to the underlying facts. The complaint fails to explain how these  
22 statutes are implicated in the alleged denial of benefits, and the court cannot determine whether if  
23 plaintiff’s claims appropriately brought under the cited statutes. Although the Federal Rules  
24 adopt a flexible pleading policy, a complaint must give fair notice and state the elements of the  
25 claim plainly and succinctly. *Jones v. Community Redev. Agency*, 733 F.2d 646, 649 (9th Cir.  
26 1984). Because plaintiff has failed to comply with the requirements of Federal Rule of Civil  
27 Procedure 8(a)(2), the complaint will be dismissed with leave to amend.

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1 III. AMENDING THE COMPLAINT

2 The amended complaint must contain a short and plain statement of plaintiff’s claims.  
3 That is, it must state what the defendant did that harmed the plaintiff. The amended complaint  
4 must not force the court and the defendants to guess at what is being alleged against whom. See  
5 McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996) (affirming dismissal of a complaint where  
6 the district court was “literally guessing as to what facts support the legal claims being asserted  
7 against certain defendants”). To the extent possible, plaintiff should provide the information  
8 identified as missing above.

9 In setting forth the facts, plaintiff must not go overboard, however. He must avoid  
10 excessive repetition of the same allegations. He must avoid narrative and storytelling. That is,  
11 the complaint should not include every detail of what happened, nor recount the details of  
12 conversations (unless necessary to establish the claim), nor give a running account of plaintiff’s  
13 hopes and thoughts. Rather, the amended complaint should contain only those facts needed to  
14 show how the defendant legally wronged the plaintiff.

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

24 IV. PLAIN LANGUAGE SUMMARY FOR PRO SE PLAINTIFF

25 Your application to proceed in forma pauperis will be granted, but your complaint is being  
26 dismissed and you are being given an opportunity to submit an amended complaint within 30  
27 days. The amended complaint should be “simple, concise, and direct.” You should provide  
28 information that clearly states (1) the basis for federal jurisdiction, (2) the alleged harm you

1 suffered and how the defendant harmed you, and (3) the relief you are seeking. An amended  
2 complaint should briefly provide the necessary information, following the directions above.

3 V. CONCLUSION

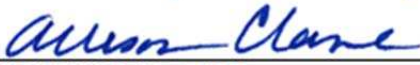
4 Accordingly, IT IS HEREBY ORDERED that:

5 1. Plaintiff's request to proceed in forma pauperis (ECF No. 2) is GRANTED.

6 2. The complaint (ECF No. 1) is DISMISSED with leave to amend;

7 3. Plaintiff may file his amended complaint within 30 days of the date of this order. If  
8 plaintiff files an amended complaint, he must comply with the instructions given above. If  
9 plaintiff fails to timely comply with this order, the undersigned may recommend that this action  
10 be dismissed for failure to prosecute.

11 DATED: August 17, 2017

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13 ALLISON CLAIRE  
14 UNITED STATES MAGISTRATE JUDGE  
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