

1 To avoid dismissal for failure to state a claim, a complaint must contain more than “naked
2 assertions,” “labels and conclusions,” or “a formulaic recitation of the elements of a cause of
3 action.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-57 (2007). In other words,
4 “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory
5 statements do not suffice.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). Furthermore, a claim
6 upon which the court can grant relief has facial plausibility. Twombly, 550 U.S. at 570. “A
7 claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw
8 the reasonable inference that the defendant is liable for the misconduct alleged.” Iqbal, 556 U.S.
9 at 678. When considering whether a complaint states a claim upon which relief can be granted,
10 the court must accept the well-pled factual allegations as true, Erickson v. Pardus, 551 U.S. 89, 94
11 (2007), and construe the complaint in the light most favorable to the plaintiff, see Scheuer v.
12 Rhodes, 416 U.S. 232, 236 (1974).

13 Pro se pleadings are liberally construed. See Haines v. Kerner, 404 U.S. 519, 520-21
14 (1972); Balistreri v. Pacifica Police Dep’t, 901 F.2d 696, 699 (9th Cir. 1988). Unless it is clear
15 that no amendment can cure the defects of a complaint, a pro se plaintiff proceeding *in forma*
16 *pauperis* is ordinarily entitled to notice and an opportunity to amend before dismissal. See Noll
17 v. Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987); Franklin v. Murphy, 745 F.2d 1221, 1230 (9th
18 Cir. 1984). Nevertheless, leave to amend need not be granted when further amendment would be
19 futile. See Cahill v. Liberty Mut. Ins. Co., 80 F.3d 336, 339 (9th Cir. 1996).

20 Here, plaintiff attempts to bring claims under 42 U.S.C. § 1983 against Placer County
21 Court officials, and employees of the Department of Child Support Services, alleging that they
22 violated her constitutional rights, when enforcing child custody orders against her. (ECF No. 1.)
23 Child custody issues are family law matters, and it would be inappropriate for a federal court to
24 interfere in a pending family law matter. See Coats v. Woods, 819 F.2d 236, 237 (9th Cir. 1987)
25 (no abuse of discretion in district court’s abstention from hearing § 1983 claims arising from a
26 child custody dispute pending in state court). Family law disputes are domestic relations matters
27 traditionally within the domain of the state courts, and it is appropriate for federal district courts
28 to abstain from hearing such cases, which often involve continued judicial supervision by the

1 state. Coats, 819 F.2d at 237. If plaintiff truly believes that the superior court judge’s orders
2 were erroneous, the proper recourse is appeal of those orders in the state appellate courts—not the
3 filing of a new action in federal court.

4 Moreover, this matter is related to numerous other cases where T.A. Darling is either the
5 plaintiff or defendant. See Powell v. Darling, 2:16-CV-1047 MCE CKD (closed); Powell et al. v.
6 Department of Child Support Services et al., 2:16-CV-1197 TLN GGH (closed), Powell v.
7 Darling, 2:17-CV-392 KJM DB (closed); Powell v. Darling, 2:17-CV-1035 KJM CKD (closed);
8 Darlin v. Powell, 2:17-CV-1670 GEB KJN; Darling v. Powell, 2:17-CV-1692 TLN EFB; Darling
9 v. Powell, 2:17-CV-1723 KJM EFB. All of these cases relate to state court family law
10 proceedings, and many of them have already been closed.

11 Accordingly, IT IS HEREBY RECOMMENDED that:

- 12 1. The action be dismissed without leave to amend.
- 13 2. Plaintiff’s motion to proceed *in forma pauperis* in this court (ECF No. 2) be denied as
14 moot.
- 15 3. The Clerk of Court be directed to close this case.

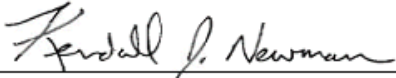
16 In light of these recommendations, IT IS ALSO HEREBY ORDERED that all pleading,
17 discovery, and motion practice in this action are stayed pending resolution of these findings and
18 recommendations. Other than objections to the findings and recommendations or non-frivolous
19 motions for emergency relief, the court will not entertain or respond to any pleadings or motions
20 until the findings and recommendations are resolved.

21 These findings and recommendations are submitted to the United States District Judge
22 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14)
23 days after being served with these findings and recommendations, any party may file written
24 objections with the court and serve a copy on all parties. Such a document should be captioned
25 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections
26 shall be served on all parties and filed with the court within fourteen (14) days after service of the
27 objections. The parties are advised that failure to file objections within the specified time may
28 waive the right to appeal the District Court’s order. Turner v. Duncan, 158 F.3d 449, 455 (9th

1 Cir. 1998); Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir. 1991).

2 IT IS SO ORDERED AND RECOMMENDED.

3 Dated: October 12, 2017

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KENDALL J. NEWMAN
6 UNITED STATES MAGISTRATE JUDGE

7 14/ps.17-1697.darling v. gazzaniga.IFP dismissal

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