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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID MORDECAI,  
Plaintiff,  
v.  
SAN JOAQUIN COUNTY  
BEHAVIORAL HEALTH SERVICES,  
Defendant.

No. 2:18-cv-00007 MCE 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”), 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

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.”).

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1 The Federal Rules of Civil Procedure are available online at [www.uscourts.gov/rules-](http://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure)  
2 [policies/current-rules-practice-procedure/federal-rules-civil-procedure](http://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure).

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

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

18 The court applies the same rules of construction in determining whether the complaint  
19 states a claim on which relief can be granted. Erickson v. Pardus, 551 U.S. 89, 94 (2007) (court  
20 must accept the allegations as true); Scheuer v. Rhodes, 416 U.S. 232, 236 (1974) (court must  
21 construe the complaint in the light most favorable to the plaintiff). Pro se pleadings are held to a  
22 less stringent standard than those drafted by lawyers. Haines v. Kerner, 404 U.S. 519, 520  
23 (1972). However, the court need not accept as true conclusory allegations, unreasonable  
24 inferences, or unwarranted deductions of fact. Western Mining Council v. Watt, 643 F.2d 618,  
25 624 (9th Cir. 1981). A formulaic recitation of the elements of a cause of action does not suffice  
26 to state a claim. Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-57 (2007); Ashcroft v. Iqbal,  
27 556 U.S. 662, 678 (2009).

28 To state a claim on which relief may be granted, the plaintiff must allege enough facts “to

1 state a claim to relief that is plausible on its face.” Twombly, 550 U.S. at 570. “A claim has  
2 facial plausibility when the plaintiff pleads factual content that allows the court to draw the  
3 reasonable inference that the defendant is liable for the misconduct alleged.” Iqbal, 556 U.S. at  
4 678. A pro se litigant is entitled to notice of the deficiencies in the complaint and an opportunity  
5 to amend, unless the complaint’s deficiencies could not be cured by amendment. See Noll v.  
6 Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987).

7 A. The Complaint

8 Plaintiff brings suit against his former employer, San Juaquin County Behavioral Health  
9 Services. ECF No. 1 at 2. Plaintiff checks the box on the form complaint indicating that the basis  
10 for federal jurisdiction is federal question. Id. at 4. When asked to list the specific federal laws at  
11 issue, plaintiff writes “Title VII, I and V.” Id. Plaintiff alleges that while employed by defendant  
12 he was “denied treatment (access to psychiatrists, medications, etc)” and alleges he was “signed  
13 out” because he was white and disabled. Id. at 5. Plaintiff alleges he was denied his rights under  
14 the Americans with Disabilities Act. Id. Plaintiff requests \$800,000 in lost earnings. Id. at 6.

15 B. Analysis

16 The complaint does not contain a “short and plain” statement setting forth the basis for  
17 federal jurisdiction, plaintiff’s entitlement to relief, or the relief that is sought, even though those  
18 things are required by Fed. R. Civ. P. 8(a)(1)-(3). The exact nature of what happened to plaintiff  
19 is unclear, and the complaint describes apparently disconnected events and circumstances that  
20 seem mostly unrelated to the only defendant in this case. The court cannot tell from examining  
21 the complaint what legal wrong was done to plaintiff, by whom and when, or how any alleged  
22 harm is connected to the relief plaintiff seeks.

23 Because the complaint does not satisfy Rule 8 or state any viable claim, plaintiff will be  
24 provided an opportunity to file an amended complaint. If plaintiff does not submit an amended  
25 complaint by the deadline, the undersigned will recommend that this case be dismissed pursuant  
26 to 28 U.S.C. § 1915(e)(2), for failure to state a claim.

27 II. AMENDING THE COMPLAINT

28 If plaintiff chooses to amend the complaint, the amended complaint must allege facts

1 establishing the existence of federal jurisdiction. In addition, it must contain a short and plain  
2 statement of plaintiff's claims. The allegations of the complaint must be set forth in sequentially  
3 numbered paragraphs, with each paragraph number being one greater than the one before, each  
4 paragraph having its own number, and no paragraph number being repeated anywhere in the  
5 complaint. Each paragraph should be limited "to a single set of circumstances" where  
6 possible. Rule 10(b). As noted above, forms are available to help plaintiffs organize their  
7 complaint in the proper way. They are available at the Clerk's Office, 501 I Street, 4th Floor  
8 (Rm. 4-200), Sacramento, CA 95814, or online at [www.uscourts.gov/forms/pro-se-forms](http://www.uscourts.gov/forms/pro-se-forms).

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

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

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

1 original complaint, each claim and the involvement of each defendant must be sufficiently  
2 alleged.

3 III. PRO SE PLAINTIFF'S SUMMARY

4 The court cannot tell from your complaint what legal harm was done to you. You may  
5 submit an amended complaint within 30 days of this order. If you choose to submit an amended  
6 complaint, it must clearly state who did what to you, and why you believe you should be able to  
7 get legal relief. You need to tell the court, in simple terms, what laws you believes were violated,  
8 who you believe violated them, and how the violations impacted you. Without this information,  
9 the court cannot tell what legal claims you are trying to bring against the defendant. If you do not  
10 submit an amended complaint by the deadline, the magistrate judge will recommend that your  
11 case be dismissed.

12 IV. CONCLUSION

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. Plaintiff's request to proceed in forma pauperis (ECF No. 3) is GRANTED;
- 15 2. The complaint (ECF No. 1), is DISMISSED because it does not contain the short and  
16 plain statement of the claim required by Rule 8(a); and
- 17 3. Plaintiff shall have 30 days from the date of this order to file an amended complaint that  
18 names defendants who are amenable to suit, and which complies with the instructions  
19 given above. If plaintiff fails to timely comply with this order, the undersigned may  
20 recommend that this action be dismissed.

21 DATED: January 10, 2018

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23 ALLISON CLAIRE  
24 UNITED STATES MAGISTRATE JUDGE  
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