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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SUSAN ALLARD,

 Plaintiff,

 v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

 Defendant.

No. 2:18-cv-00742 JAM AC (PS)

ORDER

Plaintiff is proceeding in this action pro se. This matter was accordingly referred to the undersigned by E.D. Cal. Local Rule 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.”). The Federal Rules of Civil Procedure are available online at www.uscourts.gov/rules-

1 [policies/current-rules-practice-procedure/federal-rules-civil-procedure.](#)

2 Under the Federal Rules of Civil Procedure, the complaint must contain (1) a “short and
3 plain statement” of the basis for federal jurisdiction (that is, the reason the case is filed in this
4 court, rather than in a state court), (2) a short and plain statement showing that plaintiff is entitled
5 to relief (that is, who harmed the plaintiff, and in what way), and (3) a demand for the relief
6 sought. Fed. R. Civ. P. 8(a). Plaintiff’s claims must be set forth simply, concisely and directly.
7 Fed. R. Civ. P. 8(d)(1). Forms are available to help pro se plaintiffs organize their complaint in
8 the proper way. They are available at the Clerk’s Office, 501 I Street, 4th Floor (Rm. 4-200),
9 Sacramento, CA 95814, or online at [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; Von
15 Saher v. Norton Simon Museum of Art at Pasadena, 592 F.3d 954, 960 (9th Cir. 2010), cert.
16 denied, 564 U.S. 1037 (2011).

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

27 To state a claim on which relief may be granted, the plaintiff must allege enough facts “to
28 state a claim to relief that is plausible on its face.” Twombly, 550 U.S. at 570. “A claim has

1 facial plausibility when the plaintiff pleads factual content that allows the court to draw the
2 reasonable inference that the defendant is liable for the misconduct alleged.” Iqbal, 556 U.S. at
3 678. A pro se litigant is entitled to notice of the deficiencies in the complaint and an opportunity
4 to amend, unless the complaint’s deficiencies could not be cured by amendment. See Noll v.
5 Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987), superseded on other grounds by statute as stated in
6 Lopez v. Smith, 203 F.3d 1122 (9th Cir.2000)) (en banc).

7 A. The Complaint

8 Plaintiff brings suit against the Secretary of Health and Human Services for “violation of
9 AB 88, civil rights, Medicare standards of care, 5150 rules, etc.” ECF No. 1 at 4. Under
10 “statement of claim” plaintiff writes “defendant reimbursed Medicare claims proved fraudulent
11 but refused to reimburse clinically necessary treatment.” Id. at 5. Plaintiff seeks \$500,000,000 in
12 “whistleblower awards.” Id. at 6. The remainder of plaintiff’s complaint is incoherent.
13 Plaintiff’s complaint contains 246 pages of documents – including written narrative, photocopied
14 papers, e-mail correspondence, and handwritten notes – without any indication of how these
15 documents relate to plaintiff’s claims.

16 B. Analysis

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

24 II. AMENDING THE COMPLAINT

25 If plaintiff chooses to amend the complaint, the amended complaint must allege facts
26 establishing the existence of federal jurisdiction. In addition, it must contain a short and plain
27 statement of plaintiff’s claims. The allegations of the complaint must be set forth in sequentially
28 numbered paragraphs, with each paragraph number being one greater than the one before, each

1 paragraph having its own number, and no paragraph number being repeated anywhere in the
2 complaint. Each paragraph should be limited “to a single set of circumstances” where
3 possible. Rule 10(b). As noted above, forms are available to help plaintiffs organize their
4 complaint in the proper way. They are available at the Clerk’s Office, 501 I Street, 4th Floor
5 (Rm. 4-200), Sacramento, CA 95814, or online at www.uscourts.gov/forms/pro-se-forms.

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

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

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

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III. PRO SE PLAINTIFF'S SUMMARY

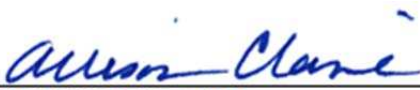
The court cannot tell from plaintiff's complaint what legal harm was done to her. The court is dismissing plaintiff's complaint, but allowing her to submit an amended complaint within 30 days of this order. If plaintiff chooses to submit an amended complaint, it must clearly state who did what to her, and why she believes she should be able to get legal relief. Plaintiff needs to tell the court, in simple terms, what laws she believes were violated, who she believes violated them, and how the violations impacted her. Without this information, the court cannot tell what legal claims plaintiff is trying to bring against the defendant. If plaintiff does not submit an amended complaint by the deadline, the undersigned will recommend that the case be dismissed.

IV. CONCLUSION

Accordingly, IT IS HEREBY ORDERED that:

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

DATED: April 4, 2018



ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE