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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MELVIN PATTERSON,

Plaintiff,

v.

FRANKLIN VILLA ESTATES
HOMEOWNERS ASSOCIATION AKA
MORRISON CREEK ESTATES
HOMEOWNERS ASSOCIATION.

Defendant.

No. 2:18-cv-3175 MCE DB PS

FINDINGS AND RECOMMENDATIONS

Plaintiff Melvin Patterson is proceeding in this action pro se. This matter was referred to the undersigned in accordance with Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1). Pending before the court are plaintiff’s amended complaint and motion to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. (ECF Nos. 2, 6.) Therein, plaintiff complains about defendant’s failure to stop plaintiff’s neighbors from harassing plaintiff.

The court is required to screen complaints brought by parties proceeding in forma pauperis. See 28 U.S.C. § 1915(e)(2); see also Lopez v. Smith, 203 F.3d 1122, 1129 (9th Cir. 2000) (en banc). Here, plaintiff’s amended complaint is deficient. Accordingly, for the reasons stated below, the undersigned will recommend that plaintiff’s amended complaint be dismissed without leave to amend.

1 **I. Plaintiff's Application to Proceed In Forma Pauperis**

2 Plaintiff's in forma pauperis application makes the financial showing required by 28
3 U.S.C. § 1915(a)(1). However, a determination that a plaintiff qualifies financially for in forma
4 pauperis status does not complete the inquiry required by the statute. "A district court may deny
5 leave to proceed in forma pauperis at the outset if it appears from the face of the proposed
6 complaint that the action is frivolous or without merit." Minetti v. Port of Seattle, 152 F.3d
7 1113, 1115 (9th Cir. 1998) (quoting Tripati v. First Nat. Bank & Trust, 821 F.2d 1368, 1370 (9th
8 Cir. 1987)); see also McGee v. Department of Child Support Services, 584 Fed. Appx. 638 (9th
9 Cir. 2014) ("the district court did not abuse its discretion by denying McGee's request to proceed
10 IFP because it appears from the face of the amended complaint that McGee's action is frivolous
11 or without merit"); Smart v. Heinze, 347 F.2d 114, 116 (9th Cir. 1965) ("It is the duty of the
12 District Court to examine any application for leave to proceed in forma pauperis to determine
13 whether the proposed proceeding has merit and if it appears that the proceeding is without merit,
14 the court is bound to deny a motion seeking leave to proceed in forma pauperis.").

15 Moreover, the court must dismiss an in forma pauperis case at any time if the allegation of
16 poverty is found to be untrue or if it is determined that the action is frivolous or malicious, fails to
17 state a claim on which relief may be granted, or seeks monetary relief against an immune
18 defendant. See 28 U.S.C. § 1915(e)(2). A complaint is legally frivolous when it lacks an
19 arguable basis in law or in fact. Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v.
20 Murphy, 745 F.2d 1221, 1227-28 (9th Cir. 1984). Under this standard, a court must dismiss a
21 complaint as frivolous where it is based on an indisputably meritless legal theory or where the
22 factual contentions are clearly baseless. Neitzke, 490 U.S. at 327; 28 U.S.C. § 1915(e).

23 To state a claim on which relief may be granted, the plaintiff must allege "enough facts to
24 state a claim to relief that is plausible on its face." Bell Atlantic Corp. v. Twombly, 550 U.S. 544,
25 570 (2007). In considering whether a complaint states a cognizable claim, the court accepts as
26 true the material allegations in the complaint and construes the allegations in the light most
27 favorable to the plaintiff. Hishon v. King & Spalding, 467 U.S. 69, 73 (1984); Hosp. Bldg. Co. v.
28 Trustees of Rex Hosp., 425 U.S. 738, 740 (1976); Love v. United States, 915 F.2d 1242, 1245

1 (9th Cir. 1989). Pro se pleadings are held to a less stringent standard than those drafted by
2 lawyers. Haines v. Kerner, 404 U.S. 519, 520 (1972). However, the court need not accept as true
3 conclusory allegations, unreasonable inferences, or unwarranted deductions of fact. Western
4 Mining Council v. Watt, 643 F.2d 618, 624 (9th Cir. 1981).

5 The minimum requirements for a civil complaint in federal court are as follows:

6 A pleading which sets forth a claim for relief . . . shall contain (1) a
7 short and plain statement of the grounds upon which the court's
8 jurisdiction depends . . . , (2) a short and plain statement of the claim
showing that the pleader is entitled to relief, and (3) a demand for
judgment for the relief the pleader seeks.

9 Fed. R. Civ. P. 8(a).

10 **II. Plaintiff's Amended Complaint**

11 Plaintiff's amended complaint fails to contain a short and plain statement of the grounds
12 upon which the court's jurisdiction depends or a short and plain statement of a claim showing that
13 plaintiff is entitled to relief. Jurisdiction is a threshold inquiry that must precede the adjudication
14 of any case before the district court. Morongo Band of Mission Indians v. Cal. State Bd. of
15 Equalization, 858 F.2d 1376, 1380 (9th Cir. 1988). Federal courts are courts of limited
16 jurisdiction and may adjudicate only those cases authorized by federal law. Kokkonen v.
17 Guardian Life Ins. Co., 511 U.S. 375, 377 (1994); Willy v. Coastal Corp., 503 U.S. 131, 136-37
18 (1992). "Federal courts are presumed to lack jurisdiction, 'unless the contrary appears
19 affirmatively from the record.'" Casey v. Lewis, 4 F.3d 1516, 1519 (9th Cir. 1993) (quoting
20 Bender v. Williamsport Area Sch. Dist., 475 U.S. 534, 546 (1986)).

21 Lack of subject matter jurisdiction may be raised by the court at any time during the
22 proceedings. Attorneys Trust v. Videotape Computer Prods., Inc., 93 F.3d 593, 594-95 (9th Cir.
23 1996). A federal court "ha[s] an independent obligation to address sua sponte whether [it] has
24 subject-matter jurisdiction." Dittman v. California, 191 F.3d 1020, 1025 (9th Cir. 1999). It is the
25 obligation of the district court "to be alert to jurisdictional requirements." Grupo Dataflux v.
26 Atlas Global Group, L.P., 541 U.S. 567, 593 (2004). Without jurisdiction, the district court
27 cannot decide the merits of a case or order any relief. See Morongo, 858 F.2d at 1380.

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1 The basic federal jurisdiction statutes are 28 U.S.C. §§ 1331 and 1332, which confer
2 “federal question” and “diversity” jurisdiction, respectively. Federal jurisdiction may also be
3 conferred by federal statutes regulating specific subject matter. “[T]he existence of federal
4 jurisdiction depends solely on the plaintiff’s claims for relief and not on anticipated defenses to
5 those claims.” ARCO Env’tl. Remediation, LLC v. Dep’t of Health & Env’tl. Quality, 213 F.3d
6 1108, 1113 (9th Cir. 2000).

7 District courts have diversity jurisdiction only over “all civil actions where the matter in
8 controversy exceeds the sum or value of \$75,000, exclusive of interest and costs,” and the action
9 is between: “(1) citizens of different States; (2) citizens of a State and citizens or subjects of a
10 foreign state; (3) citizens of different States and in which citizens or subjects of a foreign state are
11 additional parties; and (4) a foreign state . . . as plaintiff and citizens of a State or of different
12 States.” 28 U.S.C. § 1332. “To demonstrate citizenship for diversity purposes a party must (a) be
13 a citizen of the United States, and (b) be domiciled in a state of the United States.” Lew v. Moss,
14 797 F.2d 747, 749 (9th Cir. 1986). “Diversity jurisdiction requires complete diversity between
15 the parties—each defendant must be a citizen of a different state from each plaintiff.” In re
16 Digimarc Corp. Derivative Litigation, 549 F.3d 1223, 1234 (9th Cir. 2008).

17 Here, the amended complaint alleges that “[m]anagment at Morrison Creek Estates
18 Homeowners Association failed to take action against Neighbors” that have been harassing
19 plaintiff “for four years.” (Am. Compl. (ECF No. 6) at 4.) The neighbors “made countless
20 frivolous complaints” about plaintiff to defendant and defendant assigned “a security detail” to
21 plaintiff’s unit, charging the cost of security to plaintiff. Id. The amended complaint, however,
22 fails to allege what claim plaintiff is asserting against the defendant or why this court would have
23 subject matter jurisdiction over that claim.

24 Although the Federal Rules of Civil Procedure adopt a flexible pleading policy, a
25 complaint must give the defendant fair notice of the plaintiff’s claims and must allege facts that
26 state the elements of each claim plainly and succinctly. Fed. R. Civ. P. 8(a)(2); Jones v.
27 Community Redev. Agency, 733 F.2d 646, 649 (9th Cir. 1984). “A pleading that offers ‘labels
28 and conclusions’ or ‘a formulaic recitation of the elements of cause of action will not do.’ Nor

1 does a complaint suffice if it tenders ‘naked assertions’ devoid of ‘further factual
2 enhancements.’” Ashcroft v. Iqbal, 556 U.S.662, 678 (2009) (quoting Twombly, 550 U.S. at 555,
3 557). A plaintiff must allege with at least some degree of particularity overt acts which the
4 defendants engaged in that support the plaintiff’s claims. Jones, 733 F.2d at 649.

5 **III. Further Leave to Amend**

6 For the reasons stated above, plaintiff’s amended complaint should be dismissed. The
7 undersigned has carefully considered whether plaintiff may further amend the complaint to state a
8 claim upon which relief could be granted. “Valid reasons for denying leave to amend include
9 undue delay, bad faith, prejudice, and futility.” California Architectural Bldg. Prod. v. Franciscan
10 Ceramics, 818 F.2d 1466, 1472 (9th Cir. 1988); see also Klamath-Lake Pharm. Ass’n v. Klamath
11 Med. Serv. Bureau, 701 F.2d 1276, 1293 (9th Cir. 1983) (holding that while leave to amend shall
12 be freely given, the court does not have to allow futile amendments). In light of the deficiencies
13 noted above, the undersigned finds that it would be futile to grant plaintiff further leave to amend
14 in this case.

15 **CONCLUSION**

16 Accordingly, for the reasons stated above, IT IS HEREBY RECOMMENDED that:

- 17 1. Plaintiff’s December 10, 2018 application to proceed in forma pauperis (ECF No. 2) be
18 denied;
19 2. Plaintiff’s May 2, 2019 amended complaint (ECF No. 6) be dismissed without leave to
20 amend; and
21 3. This action be closed.


22 These findings and recommendations will be submitted to the United States District Judge
23 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14)
24 days after being served with these findings and recommendations, plaintiff may file written
25 objections with the court. A document containing objections should be titled “Objections to
26 Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file

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1 objections within the specified time may, under certain circumstances, waive the right to appeal
2 the District Court's order. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

3 Dated: October 11, 2019

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6 DEBORAH BARNES
7 UNITED STATES MAGISTRATE JUDGE
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