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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MATTHEW BARRAZA,
Plaintiff,
v.
PRODUCTION FRAMING, INC., et al.,
Defendants.

No. 2:21-cv-01562 KJM AC PS

ORDER

Plaintiff is proceeding in this action pro se. The 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.”). The Federal Rules of Civil Procedure are available online at www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure.

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

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

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

26 To state a claim on which relief may be granted, the plaintiff must allege enough facts “to
27 state a claim to relief that is plausible on its face.” Twombly, 550 U.S. at 570. “A claim has
28 facial plausibility when the plaintiff pleads factual content that allows the court to draw the

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

6 A. The Complaint

7 Plaintiff sues his former employer, Production Framing Inc., and individuals Doyle
8 Hendrick, Jose Hernandez, and Scott Bergst. ECF No. 1 at 2. Plaintiff checks the box on the
9 form complaint indicating that the basis for his lawsuit is Title VII of the Civil Rights Act of 1965
10 and the Americans with Disabilities Act of 1990. ECF No. 1 at 4. Under “other federal law”
11 plaintiff writes “discrimination retaliation.” Id. When prompted to identify the discriminatory
12 conduct at issue, plaintiff listed termination of employment, failure to promote, failure to
13 accommodate his disability, unequal terms and conditions of employment, and retaliation. Id. at
14 5. The discriminatory acts took place July 15, 2019. Id. Plaintiff alleges he was discriminated
15 against based on his race, color, national origin, and disability, though he does not identify what
16 his race, color, national origin, or disability are. Id.

17 The body of plaintiff’s complaint states that he was terminated from employment based on
18 his disability and in retaliation for requesting a reasonable accommodation on or about July 15,
19 2019. Id. at 6. Plaintiff states he provided a medical note to his employer releasing him to return
20 to work, but he did not receive a response. Id. On August 6, 2019, plaintiff was told he was
21 terminated because he did not sign a waiver that was part of his employment packet, but he was
22 not informed of the document upon his hiring. Id. Plaintiff alleges his termination was pretext
23 for discrimination in retaliation for requesting an employment accommodation. Id. Plaintiff also
24 believes it was pretext for retaliation for reporting racial harassment to his supervisor, Jose
25 Hernandez. Id. Plaintiff seeks one million dollars in damages. Id. at 8.

26 B. Analysis

27 Plaintiff’s complaint, as drafted, does not provide enough information for the court to
28 determine whether plaintiff can state a claim upon which relief can be granted.

1 To establish a prima facie case of discrimination under Title VII, the plaintiff must show:
2 “(1) he is a member of a protected class; (2) he was qualified for his position; (3) he experienced
3 an adverse employment action; and (4) similarly situated individuals outside his protected class
4 were treated more favorably, or other circumstances surrounding the adverse employment action
5 give rise to an inference of discrimination.” Bodett v. CoxCom, Inc., 366 F.3d 736, 743 (9th
6 Cir.2004). “Title VII prohibits both intentional discrimination (known as ‘disparate treatment’)
7 as well as, in some cases, practices that are not intended to discriminate but in fact have a
8 disproportionately adverse effect on minorities (known as ‘disparate impact’).” Ricci v.
9 DeStefano, 557 U.S. 557, 577, (2009). “Proof of discriminatory motive is critical [in disparate
10 treatment cases], although it can in some situations be inferred from the mere fact of differences
11 in treatment.” Int’l Bhd. of Teamsters v. United States, 431 U.S. 324, 335 n. 15, 97 S.Ct. 1843,
12 52 L.Ed.2d 396 (1977).

13 Here, plaintiff has not established that he is a member of a protected class under Title VII.
14 He alleges racial and national origin discrimination but does not identify his race or national
15 origin. Nor does he list any facts indicating he was qualified for his position, that his employment
16 termination was related to any protected-class status, or that similarly situated individuals outside
17 his protected class status were treated more favorably. Plaintiff’s conclusory statements and
18 speculation are not enough. He must provide specific facts to establish that he can state a Title
19 VII discrimination claim.

20 As to plaintiff’s retaliation claim, plaintiff specifies retaliation was due to his request for
21 disability accommodations, but he does not allege enough facts to state a claim. The Ninth
22 Circuit has recognized that the framework used to analyze Title VII retaliation claims applies
23 equally to the ADA. Barnett v. U.S. Air, Inc., 228 F.3d 1105, 1121 (9th Cir.2000) (adopting Title
24 VII analysis for the ADA), overruled on other grounds, 535 U.S. 391 (2002). To establish a
25 prima facie case of retaliation under this framework, a plaintiff must demonstrate: (1) that he
26 engaged in a protected activity, (2) that he was thereafter subjected to adverse employment
27 action, and (3) that a causal link exists between the protected activity and the adverse
28 employment action. Id. To establish an adverse employment action, “a plaintiff must show that a

1 reasonable employee would have found the challenged action materially adverse, which in this
2 context means it well might have dissuaded a reasonable worker from making or supporting a
3 charge of discrimination.” Burlington N. & Santa Fe Ry. Co. v. White, 548 U.S. 53, 68 (2006)
4 (quotations omitted). A causal link can be shown by direct evidence or inferred from
5 circumstantial evidence such as closeness in time between the protected activity and the
6 employment decision and whether the employer knew that the employee engaged in protected
7 activities. Yartzoff v. Thomas, 809 F.2d 1371, 1376 (9th Cir.1987). The complaint must state
8 enough facts to establish a prima facie retaliation case under the ADA.

9 Finally, plaintiff does not make any allegations related to the individual defendants.
10 Because of this, he cannot state any legal claim against them.

11 II. AMENDING THE COMPLAINT

12 If plaintiff chooses to amend the complaint, the amended complaint must allege facts
13 establishing the existence of federal jurisdiction. In addition, it must contain a short and plain
14 statement of plaintiff’s claims. The allegations of the complaint must be set forth in sequentially
15 numbered paragraphs, with each paragraph number being one greater than the one before, each
16 paragraph having its own number, and no paragraph number being repeated anywhere in the
17 complaint. Each paragraph should be limited “to a single set of circumstances” where
18 possible. Rule 10(b). As noted above, forms are available to help plaintiffs organize their
19 complaint in the proper way. They are available at the Clerk’s Office, 501 I Street, 4th Floor
20 (Rm. 4-200), Sacramento, CA 95814, or online at www.uscourts.gov/forms/pro-se-forms.

21 Plaintiff must avoid excessive repetition of the same allegations. Plaintiff must avoid
22 narrative and storytelling. That is, the complaint should not include every detail of what
23 happened, nor recount the details of conversations (unless necessary to establish the claim), nor
24 give a running account of plaintiff’s hopes and thoughts. Rather, the amended complaint should
25 contain only those facts needed to show how the defendant legally wronged the plaintiff. The
26 complaint must include enough factual allegations to state a claim for each cause of action
27 alleged.

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

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

18 III. PRO SE PLAINTIFF’S SUMMARY

19 It is not clear that this case can proceed. The facts you have put in your complaint are not
20 enough to make any of the legal claims you have listed. Because of this, the complaint will not
21 be served on defendants. Your lawsuit cannot proceed unless you fix the problems with your
22 complaint.

23 You are being given 30 days to submit an amended complaint. If you submit an amended
24 complaint, it needs to explain in simple terms what laws or legal rights of yours were violated, by
25 whom and how, and how those violations impacted you. You need to include enough facts to
26 show that you can support your legal claims. If you do not submit an amended complaint by the
27 deadline, the undersigned will recommend that the case be dismissed.

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IV. CONCLUSION

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's request to proceed in forma pauperis (ECF No. 2) is GRANTED;
2. Plaintiff shall have 30 days from the date of this order to file an amended complaint that 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: September 7, 2021



ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE