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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

JOHN PAUL FRANK SCHOWACHTER,  
Plaintiff,  
v.  
SEABERT, et al.,  
Defendants.

No. 2:22-CV-0461-KJM-DMC-P

FINDINGS AND RECOMMENDATIONS

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff’s original complaint, ECF. No. 1.

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. § 1915A(b)(1), (2). Moreover, the Federal Rules of Civil Procedure require that complaints contain a “. . . short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). This means that claims must be stated simply, concisely, and directly. See McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996) (referring to Fed. R. Civ. P. 8(e)(1)). These rules are satisfied if the complaint gives the defendant fair notice of the plaintiff’s claim and the grounds upon which it

1 rests. See Kimes v. Stone, 84 F.3d 1121, 1129 (9th Cir. 1996). Because Plaintiff must allege  
2 with at least some degree of particularity overt acts by specific defendants which support the  
3 claims, vague and conclusory allegations fail to satisfy this standard. Additionally, it is  
4 impossible for the Court to conduct the screening required by law when the allegations are vague  
5 and conclusory.

## 6 I. PLAINTIFF'S ALLEGATIONS

7 Plaintiff brings suit against two defendants: Judge Seabert and Judge Bosco, both  
8 of the Tuolumne County Superior Court. ECF No. 1 at 2.

9 Plaintiff alleges that Judge Seabert refused to order the prison to properly schedule  
10 court “under federal guidelines.” Id. at 3. Plaintiff also states that Judge Seabert refused to  
11 recognize “federal Colman laws.” Id. Plaintiff alleges that Judge Bosco refused to follow the  
12 schedule for court proceedings. See id. at 4. He further alleges that Judge Bosco did not properly  
13 schedule court with the prison, depriving Plaintiff of the ability to submit or argue motions. See  
14 id. Again, Plaintiff states that Judge Bosco failed to recognize “[f]ederal Colman laws.” Id.

## 15 II. DISCUSSION

16 Judges are absolutely immune from damage actions for judicial acts taken within  
17 the jurisdiction of their courts. See Schucker v. Rockwood, 846 F.2d 1202, 1204 (9th Cir. 1988)  
18 (per curiam). This immunity is lost only when the judge acts in the clear absence of all  
19 jurisdiction or performs an act that is not judicial in nature. See id. Judges retain their immunity  
20 even when they are accused of acting maliciously or corruptly, see Mireles v. Waco, 502 U.S. 9,  
21 11 (1991) (per curiam); Stump v. Sparkman, 435 U.S. 349, 356-57 (1978), and when they are  
22 accused of acting in error, see Meek v. County of Riverside, 183 F.3d 962, 965 (9th Cir. 1999).  
23 This immunity extends to the actions of court personnel when they act as “an integral part of the  
24 judicial process.” See Mullis v. U.S. Bankruptcy Court, 828 F.2d 1385, 1390 (9th Cir. 1987).

25 The entire substance of Plaintiff’s complaint is based upon judicial acts within the  
26 jurisdiction of the courts, referring to both the failure to schedule court properly, and the failure to  
27 recognize substantive laws. These claims are entirely barred by judicial immunity.

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**III. CONCLUSION**

Because it does not appear possible that the deficiencies identified herein can be cured by amending the complaint, Plaintiff is not entitled to leave to amend prior to dismissal of the entire action. See Lopez v. Smith, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc).

Based on the foregoing, the undersigned recommends that this action be dismissed with prejudice for failure to state a claim upon which relief can be granted.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days after being served with these findings and recommendations, any party may file written objections with the court. Responses to objections shall be filed within 14 days after service of objections. Failure to file objections within the specified time may waive the right to appeal. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: June 6, 2022



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DENNIS M. COTA  
UNITED STATES MAGISTRATE JUDGE