

1 **Legal Standards**

2 Pro se pleadings are to be liberally construed. Hebbe v. Pliher, 627 F.3d 338, 342 & fn.7
3 (9th Cir. 2010) (liberal construction appropriate even post-Iqbal). Prior to dismissal, the court is
4 to tell the plaintiff of deficiencies in the complaint and provide an opportunity to cure—if it
5 appears at all possible the defects can be corrected. See Lopez v. Smith, 203 F.3d 1122, 1130-31
6 (9th Cir. 2000) (en banc). However, if amendment would be futile, no leave to amend need be
7 given. Cahill v. Liberty Mut. Ins. Co., 80 F.3d 336, 339 (9th Cir. 1996). The court must dismiss a
8 case if, at any time, it determines that it lacks subject matter jurisdiction. Fed. R. Civ. P. 12(h)(3).
9 A federal district court generally has jurisdiction over a civil action when: (1) a federal question
10 is presented in an action “arising under the Constitution, laws, or treaties of the United States” or
11 (2) there is complete diversity of citizenship and the amount in controversy exceeds \$75,000. See
12 28 U.S.C. §§ 1331, 1332(a). Further, a plaintiff must have standing to assert a claim, which
13 requires an injury in fact caused by defendant(s) that may be redressed in court. Harrison v.
14 Kernan, 971 F.3d 1069, 1073 (9th Cir. 2020).

15 Federal courts lack subject matter jurisdiction to consider claims that are “so
16 insubstantial, implausible, foreclosed by prior decisions of this court, or otherwise completely
17 devoid of merit as not to involve a federal controversy.” Steel Co. v. Citizens for a Better
18 Environment, 523 U.S. 83, 89 (1998); see also Grancare, LLC v. Thrower by & through Mills,
19 889 F.3d 543, 549-50 (9th Cir. 2018) (noting that the “wholly insubstantial and frivolous”
20 standard for dismissing claims operates under Rule 12(b)(1) for lack of federal question
21 jurisdiction). A claim is legally frivolous when it lacks an arguable basis either in law or in fact.
22 Neitzke v. Williams, 490 U.S. 319, 325 (1989). A court may dismiss a claim as frivolous where
23 it is based on an indisputably meritless legal theory or where the factual contentions are clearly
24 baseless. Id. at 327; Rule 12(h)(3).

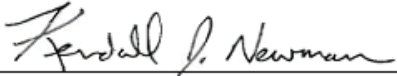
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ORDER

All pleading, discovery, and motion practice in this action are stayed pending resolution of these findings and recommendations. Other than objections to the findings and recommendations or non-frivolous motions for emergency relief, the court will not entertain or respond to any pleadings or motions until the findings and recommendations are resolved.

Dated: November 7, 2023



KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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