



1 Plaintiff must assist the court in determining whether the complaint is frivolous, by drafting the  
2 complaint so that it complies with the Federal Rules of Civil Procedure (“Fed. R. Civ. P.”). The  
3 Federal Rules of Civil Procedure are available online at [www.uscourts.gov/rules-policies/current-](http://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure)  
4 [rules-practice-procedure/federal-rules-civil-procedure](http://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure).

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

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

20 The court applies the same rules of construction in determining whether the complaint  
21 states a claim on which relief can be granted. Erickson v. Pardus, 551 U.S. 89, 94 (2007) (court  
22 must accept the allegations as true); Scheuer v. Rhodes, 416 U.S. 232, 236 (1974) (court must  
23 construe the complaint in the light most favorable to the plaintiff). Pro se pleadings are held to a  
24 less stringent standard than those drafted by lawyers. Haines v. Kerner, 404 U.S. 519, 520  
25 (1972). However, the court need not accept as true conclusory allegations, unreasonable  
26 inferences, or unwarranted deductions of fact. Western Mining Council v. Watt, 643 F.2d 618,  
27 624 (9th Cir. 1981). A formulaic recitation of the elements of a cause of action does not suffice  
28 to state a claim. Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-57 (2007); Ashcroft v. Iqbal,

1 556 U.S. 662, 678 (2009).

2 To state a claim on which relief may be granted, the plaintiff must allege enough facts “to  
3 state a claim to relief that is plausible on its face.” Twombly, 550 U.S. at 570. “A claim has  
4 facial plausibility when the plaintiff pleads factual content that allows the court to draw the  
5 reasonable inference that the defendant is liable for the misconduct alleged.” Iqbal, 556 U.S. at  
6 678. A pro se litigant is entitled to notice of the deficiencies in the complaint and an opportunity  
7 to amend unless the complaint’s deficiencies could not be cured by amendment. See Noll v.  
8 Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987), superseded on other grounds by statute as stated in  
9 Lopez v. Smith, 203 F.3d 1122 (9th Cir.2000)) (en banc).

10 B. The Initial Complaint

11 Plaintiff’s initial complaint alleged that defendants caused the loss of millions of dollars’  
12 worth of plaintiff’s property by denying him the right to pay taxes. ECF No. 1 at 1. Plaintiff  
13 alleged that his properties were protected by IRS liens, but that the IRS conspired with state  
14 officials to allow the state to take his property by lowering the priority of IRS liens without  
15 informing plaintiff. Id. Plaintiff alleged all of this was done during his incarceration between  
16 2019 and 2022. Id. Plaintiff further alleged that the Sacramento District Attorney is prosecuting  
17 minorities for non-criminal, fabricated charges. Id. at 2. Plaintiff sought injunctive relief  
18 regarding his lost properties. Id. at 2. Plaintiff asserted that taking property without informing  
19 the owner is an Extrinsic Fraud. Id. Plaintiff alleged that the failure of the IRS to give proper  
20 notice deprived him of the opportunity to litigate the tax liability. Id. Plaintiff asserted violations  
21 of sections 7432 and 7433 of the Internal Revenue Code. Id. at 3. Plaintiff also indicated that he  
22 wanted to bring a Bivens Action. Id.

23 The undersigned rejected the initial complaint on screening, explaining that it did not state  
24 a claim upon which relief can be granted. The undersigned explained that sections 7432 and 7433  
25 of the Internal Revenue Code allow taxpayers to bring civil actions in the United States district  
26 courts to recover damages from the government when an IRS officer or employee knowingly or  
27 negligently fails to release a lien (§ 7432) or recklessly or intentionally disregards any provision  
28 of the Internal Revenue Code, or any regulation promulgated thereunder (§ 7433). An action for

1 damages under Section 7432 must be brought “within 2 years after the date the right of action  
2 accrues.” *Id.* at (d)(3). “A cause of action accrues when the taxpayer has had a reasonable  
3 opportunity to discover all essential elements of a possible cause of action.” 26 U.S.C.  
4 §7432(d)(3). The provision also requires that “judgment for damages shall not be awarded . . .  
5 unless the court determines that the plaintiff has exhausted the administrative remedies available  
6 to such plaintiff within the Internal Revenue Service.” 26 U.S.C. §7432(d)(1). Section 7433  
7 contains these same limitations. 26 U.S.C. § 7433(d)(1)-(3).

8 Taking the facts alleged in plaintiff’s complaint as true, the court explained that it did not  
9 appear plaintiff could state a claim under either of these statutes because the allegations  
10 themselves do not align with the plain language of the statutes. Plaintiff claimed his property was  
11 “protected by IRS’s liens” but that the IRS conspired with state officials to take his properties “by  
12 lowering the priority of IRS’s liens without informing Singh and without any notice to Singh.”  
13 ECF No. 1 at 1. The court explained that those allegations do not support claims under § 7432,  
14 which provides a cause of action when a lien is *not properly released*. Further, the court  
15 explained that the facts alleged could not support a claim under § 7433, because plaintiff did not  
16 identify any provision of the Internal Revenue Code that was allegedly disregarded or provide  
17 any facts to support that part of the code was disregarded.

18 In the order screening the initial complaint, the court noted that substance of plaintiff’s  
19 complaint is that the IRS allowed the State to prioritize its claim to plaintiff’s property over  
20 enforcing its own rights. Plaintiff did not allege that the IRS had an improper lien on his  
21 properties, or even that the IRS enforced a lien or took plaintiff’s property. Instead, plaintiff was  
22 suing the IRS because it did not enforce its liens, freeing up other creditors to do so. The court  
23 explained that it does not believe that the decision *not to enforce* a lien or seize plaintiff’s  
24 property can create a cause of action against the IRS, and plaintiff’s complaint did not  
25 demonstrate otherwise. Further, the court noted there was no indication that plaintiff has  
26 exhausted his administrative remedies with the IRS.

27 The court further explained that a Bivins action was not available under the facts alleged  
28 in the initial complaint. ECF No. 1 at 2. In Bivins v. Six Unknown Named Agents of the Fed.

1 Narcotics Bureau, 403 U.S. 388 (1971), the Supreme Court recognized a cause of action against  
2 federal actors for constitutional torts that is analogous to a cause of action under 42 U.S.C. §  
3 1983. The U.S. Supreme Court has effectively restricted Bivens claims to certain violations of  
4 the Fourth, Fifth and Eighth Amendments. See Bivens, 403 U.S. 388 (Fourth Amendment illegal  
5 search and arrest); Davis v. Passman, 442 U.S. 228 (Fifth Amendment due process); Carlson v.  
6 Green, 446 U.S. 14 (1980) (Eighth Amendment wrongful death of prisoner).

7 In the initial complaint, plaintiff cited a Seventh Circuit case, Cameron v. IRS, 773 F.2d  
8 126, 129 (7th Cir. 1985) for the proposition that there is a potential Bivens action when an IRS  
9 agent violates a person’s Fourth or Fifth Amendment rights. ECF No. 1 at 3. The undersigned  
10 explained that Cameron, while not binding on this court, is instructive in explaining the types of  
11 unusual and extreme circumstances in which a Bivens action may be available against an IRS  
12 agent. In Cameron, the Seventh Circuit evaluated a “tax protester” plaintiff’s putative Bivens  
13 claim against an IRS employee for badgering the plaintiff in connection with the attempt to  
14 collect taxes. Cameron, 773 F.2d at 128. The Seventh Circuit held that a Bivens claim is not  
15 available for claims arising from ordinary tax collection and related errors. Id.

16 The Cameron court explained:

17 If in the course of enforcing the tax laws internal revenue agents  
18 ransack people’s homes without a warrant, or otherwise violate the  
19 Fourth Amendment, the argument for a damage remedy against the  
20 agents is a powerful one, since a suit for a tax refund would not be  
21 an adequate substitute . . . But the argument becomes completely  
22 untenable when as in this case the only claim is that the agents made  
23 mistakes, subjected the taxpayer to unnecessary inconvenience,  
24 failed to explore possibilities for settlement, or otherwise failed to  
come up to the highest standards of conduct for government officers  
dealing with citizens. In an era of heavy taxation, many taxpayers,  
not merely “tax protesters,” feel intense irritation at the federal tax  
authorities, and the courts would be flooded with frivolous cases if  
the unavoidable frictions generated by tax collection gave rise to  
potential damage claims against internal revenue agents.

25 Cameron, 773 F.2d at 128–29.

26 The undersigned concluded that the initial complaint did not state a Bivens cause of action  
27 because the only allegations were that Singh’s property was “protected by IRS’s liens” and that  
28 by lowering its own lien priority, and denying Singh his right to pay taxes, defendant caused

1 plaintiff's loss of his properties to the state. ECF No. 1 at 3. The complaint, "insofar as it seeks  
2 damages against the individual defendants for excesses in the performance of their official duties,  
3 fails to state a claim[.]" Cameron, 773 F.2d at 129.

4 Following the explanation of the complaint's deficiencies, the undersigned declined to  
5 serve the initial complaint but provided plaintiff an opportunity to amend his complaint to allege  
6 facts supporting a cognizable cause of action.

7 C. The Amended Complaint

8 Now before the court for screening is plaintiff's amended complaint. ECF No. 4. Like  
9 the initial complaint, it alleges that the IRS acted illegally by *not* enforcing its own liens and  
10 allowing state officials to seize plaintiff's properties. ECF No. 4 at 1. The amended complaint  
11 does not allege a Bivins cause of action, but again invokes 26 U.S.C. § 7432 and § 7433. The  
12 central allegation is the same as that presented in the initial complaint: that the IRS failed to  
13 enforce its liens against plaintiff's properties. The amended complaint alleges "Singh has Right  
14 to pay Taxes and Right to have Properties. These Rights were violated by NOT ENFORCING  
15 IRS'S LIENS and by taking Singh's personal and real properties without even informing Singh  
16 and without paying Taxes." Id.

17 Plaintiff's amended complaint is substantively the same as the initial complaint and does  
18 not cure the problems identified in the prior screening order. Accordingly, the amended  
19 complaint fails to state a claim upon which relief can be granted for all the reasons identified  
20 above with respect to the initial complaint. Because plaintiff's allegations are clear and the court  
21 finds no cause of action available, the undersigned concludes further leave to amend would be  
22 futile. See California Architectural Bldg. Prod. v. Franciscan Ceramics, 818 F.2d 1466, 1472 (9th  
23 Cir. 1988) ("Valid reasons for denying leave to amend include undue delay, bad faith, prejudice,  
24 and futility."). It is therefore recommended that the amended complaint be dismissed without  
25 further leave to amend.

26 III. PRO SE PLAINTIFF'S SUMMARY

27 The magistrate judge is recommending that this case be dismissed because the facts you  
28 allege do not support a legal claim. You may object to this recommendation within 21 days. The

1 District Judge will make the final decision about whether to dismiss this case.

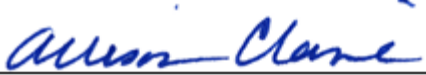
2 IV. CONCLUSION

3 Accordingly, IT IS HEREBY RECOMMENDED that this case be dismissed for failure to  
4 state a claim upon which relief can be granted.

5 These findings and recommendations are submitted to the United States District Judge  
6 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one (21)  
7 days after being served with these findings and recommendations, plaintiff may file written  
8 objections with the court. Such document should be captioned “Objections to Magistrate Judge’s  
9 Findings and Recommendations.” Local Rule 304(d). Plaintiff is advised that failure to file  
10 objections within the specified time may waive the right to appeal the District Court’s order.

11 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

12 DATED: January 7, 2025

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14 ALLISON CLAIRE  
15 UNITED STATES MAGISTRATE JUDGE  
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