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United States District Court
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

NANCY L. FENTON,
Plaintiff,
v.
REGENCY VILLAS ASSOCIATION, et al.
Defendants.

No. C 13-3993 MMC

**ORDER GRANTING PLAINTIFF'S
APPLICATION TO PROCEED IN
FORMA PAUPERIS; DISMISSING
COMPLAINT WITH LEAVE TO AMEND;
DIRECTIONS TO CLERK**

Before the Court is plaintiff Nancy L. Fenton's Application to Proceed in Forma Pauperis, filed August 27, 2013.¹ Also before the Court is plaintiff's Complaint, filed the same day. Having read and considered the above-referenced filings, the Court rules as follows.

First, it appearing that plaintiff lacks funds to pay the initial filing fee, the Court will grant plaintiff's Application to Proceed in Forma Pauperis.

Second, where, as here, a plaintiff proceeds in forma pauperis, the district court, pursuant to 28 U.S.C. § 1915(e), must dismiss the complaint if the court determines the complaint fails to state a claim upon which relief can be granted. See 28 U.S.C. § 1915(e)(2)(B)(ii).

Accordingly, the Court next considers whether the complaint states a claim.

¹ One September 10, 2013, the above-titled action was reassigned to the undersigned.

1 Plaintiff's complaint consists of five causes of action. The first four causes of action
2 are brought under California state law. The fifth cause of action, titled "Discrimination," is
3 brought under both state and federal law, specifically, as to the latter, Title VI of the Civil
4 Rights Act of 1964. Title VI of the Civil Rights Act provides as follows:

5 No person in the United States shall, on the ground of race, color, or national
6 origin, be excluded from participation in, be denied the benefits of, or be
7 subjected to discrimination under any program or activity receiving Federal
8 financial assistance.
9 42 U.S.C. § 2000d (2006).

10 As set forth therein, Title VI prohibits discrimination by programs receiving federal
11 financial assistance. Here, in support of her claim under Title VI, plaintiff alleges that she
12 suffered property damage due to flooding caused by a burst pipe and that defendant
13 Regency Villas Association, a homeowner's association, "fail[ed] to repair [her] property as
14 the other homeowners were repaired and completed" and thus "fail[ed] to treat [her] the
15 same[.]" (Compl. at 1, 4.) Plaintiff does not allege she was excluded from participation in,
16 denied the benefits of, or subjected to discrimination by any federally funded or financially
17 assisted program or activity. Moreover, she does not allege that race, color, or national
18 origin was the basis for the asserted discrimination.

19 Accordingly, plaintiff's federal cause of action will be dismissed with leave to amend.

20 Plaintiff's remaining causes of action, as noted, arise under state law, and, because
21 the parties are not diverse in citizenship, the Court's jurisdiction over those claims is
22 supplemental in nature. See 28 U.S.C. § 1367(a) (defining supplemental claims). Where,
23 as here, a court has dismissed all claims over which it has original jurisdiction, it may
24 decline to exercise supplemental jurisdiction. See 28 U.S.C. § 1367(c)(3). In this instance,
25 given the early stage of the proceedings, the Court declines to exercise supplemental
26 jurisdiction over the state law claims in the absence of a federal claim.

27 Accordingly, the state law claims will be dismissed without prejudice to refile in
28 state court, or, alternatively, if plaintiff elects to amend the fifth cause of action, without
prejudice to refile in this action.

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CONCLUSION

For the reasons stated above:


1. Plaintiff's Application to Proceed in Forma Pauperis is hereby GRANTED.

2. The Complaint is hereby DISMISSED, with leave to amend. Plaintiff's amended complaint, if any, shall be filed no later than October 11, 2013.

In light of the dismissal, the Clerk is hereby DIRECTED not to issue any summons until further order of the Court.

IT IS SO ORDERED.

Dated: September 20, 2013


MAXINE M. CHESNEY
United States District Judge