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United States District Court  
Northern District of California

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CLARENCE A. BRANCH,  
Plaintiff,  
v.  
UNITED STATES OF AMERICA,  
Defendant.

Case No. 16-cv-03811-JSC

**ORDER DISMISSING  
COMPLAINT WITH LEAVE TO  
AMEND**

Plaintiff Clarence A. Branch, proceeding pro se, brings this action against the United States of America. The Court previously granted Plaintiff’s application to proceed in forma pauperis and reserved to a later time evaluation of the Complaint under 28 U.S.C. § 1915. (Dkt. No. 3.) The Court thereafter issued an Order to Show Cause because mail sent to Plaintiff at his last known address had been returned as undeliverable. (Dkt. No. 8.) Plaintiff has since responded to the Order to Show Cause, provided his new address, and consented to the jurisdiction of the undersigned magistrate judge. (Dkt. No. 10.) As discussed below, having now conducted review of the Complaint pursuant to Section 1915, the Court DISMISSES Complaint for failure to state a claim upon which relief can be granted.

**DISCUSSION**

Under 28 U.S.C. § 1915, the Court has a continuing duty to dismiss any case in which a party is proceeding in forma pauperis if the Court determines that the action is (1) frivolous or malicious; (2) fails to state a claim on which relief may be granted; or (3) seeks monetary relief against a defendant who is immune from such relief. § 1915(e)(2); see also *Neitzke v. Williams*, 490 U.S. 319, 325 (1989) (“[A] complaint, containing as it does both factual allegations and legal conclusions, is frivolous where it lacks an arguable basis either in law or in fact.”). Upon

1 dismissal, pro se plaintiffs proceeding in forma pauperis must be given leave to “amend their  
2 complaint unless it is absolutely clear that the deficiencies of the complaint could not be cured by  
3 amendment.” *Franklin v. Murphy*, 745 F.2d 1221, 1235 n.9 (9th Cir. 1984) (internal citations and  
4 quotation marks omitted); *Lopez v. Smith*, 203 F.3d 1122, 1130-31 (9th Cir. 2000); *Balistreri v.*  
5 *Pacifica Police Dep’t*, 901 F.2d 696, 701 (9th Cir. 1988); *Breier v. N. Cal. Bowling Proprietors’*  
6 *Ass’n*, 316 F.2d 787, 790 (9th Cir. 1963).

7 Under Federal Rule of Civil Procedure 8(a)(2), “[a] pleading that states a claim for relief  
8 must contain . . . a short and plain statement of the claim showing that the pleader is entitled to  
9 relief.” This rule “require[s] that the pleading ... give[ ] the opposing party fair notice of the nature  
10 and basis or grounds of the claim and a general indication of the type of litigation involved.”  
11 *Immigrant Assistance Project of Los Angeles Cnty. Fed’n of Labor (AFL-CIO) v. I.N.S.*, 306 F.3d  
12 842, 865 (9th Cir. 2002) (quoting 5 Charles Alan Wright & Arthur R. Miller, *Federal Practice*  
13 *and Procedure* § 1215 (2d ed. 1990)). “[A]lthough pro se pleadings are construed liberally, even  
14 pro se pleadings must meet some minimum threshold in providing a defendant with notice of what  
15 it is that it allegedly did wrong.” *Doe v. Fed. Dist. Court*, 467 F. App’x 725, 727 (9th Cir. 2012)  
16 (internal quotation marks omitted).

17 The nature of Plaintiff’s action here is unclear. Although he has captioned the complaint  
18 “unlawful detainer” which is typically used to refer to a dispute over leased property rights, he has  
19 not identified any dispute regarding real property. In fact, the complaint contains no discussion of  
20 the nature of Plaintiff’s legal claim, and instead, contains the cover page captioned “unlawful  
21 detainer,” a certificate of service, and an “Appendix” to which several citations and an order from  
22 the United States Court of Appeals for the District of Columbia are attached. (Dkt. No. 1 at 7.<sup>1</sup>)  
23 The citations are from the Superior Court of the District of Columbia and the Los Angeles Police  
24 Department. (*Id.* at 4-6, 8.) Plaintiff’s civil cover sheet indicates that the “Nature of Suit” of  
25 “Civil Detainee-Conditions of Confinement” and states that he is suing under “18 USCS Appx.  
26 ART1 Title 18 Rule 60” and seeks \$100,000,000.00 (*Id.* at 1-1.) However, this is not a valid

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28 <sup>1</sup> Record citations are to material in the Electronic Case File (“ECF”); pinpoint citations are to the  
ECF-generated page numbers at the top of the documents.

1 citation to the United States Code and Plaintiff's address does not suggest that he is a civil  
2 detainee.

3 The Court cannot discern the nature of Plaintiff's legal claims from this filing. Because  
4 the filing presents "no cognizable legal theory [and] an absence of sufficient facts alleged to  
5 support a cognizable legal theory," the Complaint is dismissed for failure to state a claim. *Shroyer*  
6 *v. New Cingular Wireless Servs., Inc.*, 622 F.3d 1035, 1041 (9th Cir. 2010)

7 **CONCLUSION**

8 For the reasons stated above, the Complaint is DISMISSED for failure to state a claim.  
9 **Plaintiff shall file an amended complaint by November 14, 2016.** Plaintiff is warned that if he  
10 fails to file an amended complaint by this date, this action will be dismissed. Any amended  
11 complaint shall specify the basis for his legal claim(s) and the facts which support his claim(s).

12 As Plaintiff is proceeding pro se, the Court directs his attention to the Handbook for Pro Se  
13 Litigants, which is available along with further information for the parties on the Court's website  
14 located at <http://cand.uscourts.gov/proselitigants>. Plaintiff may also contact the Legal Help  
15 Center, 450 Golden Gate Avenue, 15th Floor, Room 2796, Telephone No. (415)-782-8982, for  
16 free assistance regarding his claims.

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18 **IT IS SO ORDERED.**

19 Dated: October 17, 2016

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22 JACQUELINE SCOTT CORLEY  
23 United States Magistrate Judge  
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Case No. [16-cv-03811-JSC](#)

**CERTIFICATE OF SERVICE**

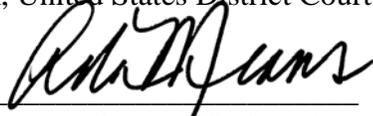
I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 17, 2016, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Clarence A. Branch  
391 Ellis Street  
General Delivery  
San Francisco, CA 94102

Dated: October 17, 2016

Susan Y. Soong  
Clerk, United States District Court

By:   
Ada Means, Deputy Clerk to the  
Honorable JACQUELINE SCOTT CORLEY