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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOHNNY ANDREW MOORE,  
Plaintiff,  
v.  
S. HATTON, et al.,  
Defendants.

Case No. [16-cv-06894-JSC](#)

**ORDER OF DISMISSAL WITH LEAVE  
TO AMEND**

**INTRODUCTION**

Plaintiff, an inmate at the California Treatment Facility (“CTF”) in Soledad, California, filed this pro se civil rights complaint under 42 U.S.C. § 1983 against officials at CTF.<sup>1</sup> Plaintiff’s application to proceed *in forma pauperis* is granted in a separate order. For the reasons explained below, the complaint is dismissed with leave to amend.

**STANDARD OF REVIEW**

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint “is frivolous, malicious, or fails to state a claim upon which relief may be granted,” or “seeks monetary relief from a defendant who is immune from such relief.” *Id.* § 1915A(b). Pro se pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990).

Federal Rule of Civil Procedure 8(a)(2) requires only “a short and plain statement of the

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<sup>1</sup> Plaintiff consented to the jurisdiction of a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c). (ECF No. 1 at 4.)

1 claim showing that the pleader is entitled to relief.” “Specific facts are not necessary; the  
2 statement need only give the defendant fair notice of what the . . . claim is and the grounds upon  
3 which it rests.” *Erickson v. Pardus*, 127 S. Ct. 2197, 2200 (2007) (citations omitted). Although to  
4 state a claim a complaint “does not need detailed factual allegations, . . . a plaintiff’s obligation to  
5 provide the grounds of his entitle[ment] to relief requires more than labels and conclusions, and a  
6 formulaic recitation of the elements of a cause of action will not do. . . . Factual allegations must  
7 be enough to raise a right to relief above the speculative level.” *Bell Atlantic Corp. v. Twombly*,  
8 127 S. Ct. 1955, 1964-65 (2007) (citations omitted). A complaint must proffer “enough facts to  
9 state a claim for relief that is plausible on its face.” *Id.* at 1974.

10 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two elements: (1) that a  
11 right secured by the Constitution or laws of the United States was violated, and (2) that the alleged  
12 violation was committed by a person acting under the color of state law. *West v. Atkins*, 487 U.S.  
13 42, 48 (1988).

14 **LEGAL CLAIMS**

15 Plaintiff alleges that he was notified of a potential breach regarding his personal health  
16 information. A laptop computer that may have included Plaintiff’s health information was stolen  
17 out of a car of a prison health care worker. The computer was password protected but was not  
18 encrypted. Plaintiff seeks money damages.

19 The complaint asserts no violation of federal law. Plaintiff claims that Defendants violated  
20 his rights under California regulations and other provisions of state law. As he asserts no violation  
21 of a right secured by the United States Constitution or other federal law, he does not state a  
22 cognizable basis for relief under 42 U.S.C. § 1983. Plaintiff is given the opportunity to assert a  
23 violation of federal law in an amended complaint, which he must file in accordance with the  
24 instructions below.

25 **CONCLUSION**

26 1. The complaint is dismissed with leave to amend. Plaintiff shall file an amended  
27 complaint within **twenty eight (28) days from the date this order is filed**. The amended  
28 complaint **must** include the caption and civil case number used in this order (No. C 16-6984 JSC

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(PR)) and the words “COURT-ORDERED FIRST AMENDED COMPLAINT” on the first page. Because an amended complaint completely replaces the original complaint, *see Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992), Plaintiff may not incorporate material from the original by reference; he must include in his amended complaint all the claims he wishes to pursue. Failure to amend within the designated time and in accordance with this order will result in the dismissal of this action.

2. It is Plaintiff's responsibility to prosecute this case. Plaintiff must keep the Court informed of any change of address by filing a separate paper with the clerk headed “Notice of Change of Address.” He also must comply with the Court's orders in a timely fashion, although he may request an extension of time provided it is accompanied by a showing of good cause and it is filed on or before the deadline he wants to extend. Failure to do so may result in the dismissal of this action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

**IT IS SO ORDERED.**

Dated: April 14, 2017

  
JACQUELINE SCOTT CORLEY  
United States Magistrate Judge