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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSE LUIS GARCIA,
Plaintiff,
v.
PATTY, et al.,
Defendants.

Case No. [16-cv-07239-JD](#)

**ORDER OF DISMISSAL WITH
LEAVE TO AMEND**

Re: Dkt. Nos. 2, 3

Plaintiff, a state prisoner, has filed a pro se civil rights complaint under 42 U.S.C. § 1983. He has been granted leave to proceed in forma pauperis.

DISCUSSION

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). In its review, the Court must identify any cognizable claims, and dismiss any claims which are frivolous, malicious, fail to state a claim upon which relief may be granted, or seek monetary relief from a defendant who is immune from such relief. *Id.* at 1915A(b)(1),(2). 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 claim showing that the pleader is entitled to relief.” Although a complaint “does not need detailed factual allegations, . . . a plaintiff’s obligation to provide the ‘grounds’ of his ‘entitle[ment] to relief’ requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do. . . . Factual allegations must be enough to raise a right to relief above

1 the speculative level.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (citations
2 omitted). A complaint must proffer “enough facts to state a claim to relief that is plausible on its
3 face.” *Id.* at 570. The United States Supreme Court has explained the “plausible on its face”
4 standard of *Twombly*: “While legal conclusions can provide the framework of a complaint, they
5 must be supported by factual allegations. When there are well-pleaded factual allegations, a court
6 should assume their veracity and then determine whether they plausibly give rise to an entitlement
7 to relief.” *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009).

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

11 **LEGAL CLAIMS**

12 It is not clear the relief that plaintiff seeks or what is the underlying claim in his complaint.
13 He discusses the world economy and the North American Free Trade Agreement and he seems to
14 have lost money many years ago. To state a claim under § 1983 plaintiff must describe how a
15 state actor violated his federal rights. Plaintiff will be provided an opportunity to amend.

16 **CONCLUSION**

17 1. The complaint is **DISMISSED** with leave to amend. The amended complaint must
18 be filed within **twenty-eight (28) days** of the date this order is filed and must include the caption
19 and civil case number used in this order and the words AMENDED COMPLAINT on the first
20 page. Because an amended complaint completely replaces the original complaint, plaintiff must
21 include in it all the claims he wishes to present. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th
22 Cir. 1992). He may not incorporate material from the original complaint by reference. Failure to
23 amend within the designated time will result in the dismissal of this case.

24 2. Plaintiff’s motion for production of documents (Docket No. 2) and motion for
25 default judgment (Docket No. 3) are **DENIED** meritless.

26 3. It is the plaintiff’s responsibility to prosecute this case. Plaintiff must keep the
27 Court informed of any change of address by filing a separate paper with the clerk headed “Notice
28 of Change of Address,” and must comply with the Court’s orders in a timely fashion. Failure to

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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: March 1, 2017



JAMES DONATO
United States District Judge

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 JOSE LUIS GARCIA,
4 Plaintiff,

5 v.

6 PATTY, et al.,
7 Defendants.
8

Case No. [16-cv-07239-JD](#)

CERTIFICATE OF SERVICE

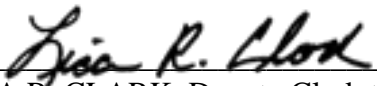
9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.
10 District Court, Northern District of California.

11
12 That on March 1, 2017, I SERVED a true and correct copy(ies) of the attached, by placing
13 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
14 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
15 receptacle located in the Clerk's office.
16

17 Jose Luis Garcia ID: E14150
18 Kern Valley State Prison
19 P.O. Box 5103
20 Delano, CA 93216

21 Dated: March 1, 2017

22
23 Susan Y. Soong
24 Clerk, United States District Court

25
26 By: 
27 LISA R. CLARK, Deputy Clerk to the
28 Honorable JAMES DONATO