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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THOMAS HEATON SPITTERS,
Plaintiff,
v.
LAURENCE L. SPITTERS, SR., et al.,
Defendants.

Case No. [23-cv-06094-TSH](#)

**ORDER GRANTING PLAINTIFF’S
APPLICATION TO PROCEED IN
FORMA PAUPERIS AND SCREENING
COMPLAINT PURSUANT TO 28 U.S.C.
§ 1915(E)**

I. INTRODUCTION

Plaintiff Thomas Heaton Spitters, proceeding pro se, filed a complaint and application to proceed in forma pauperis. ECF Nos. 1, 2. The Court initially denied Plaintiff’s in forma pauperis application with leave to amend because he did not provide his income, ECF No. 4, but he has now filed a clarifying statement, ECF No. 5. For the reasons stated below, the Court **GRANTS** the application but finds the complaint deficient under 28 U.S.C. § 1915(e). No later than January 16, 2024, Plaintiff must file a first amended complaint curing the deficiencies identified in this screening order. If Plaintiff fails to cure these deficiencies, the case will be reassigned to a district judge with a recommendation for dismissal.

II. BACKGROUND

Plaintiff brings this form complaint against Laurence Spitters, Sr. and John Laurence Spitters. In the Jurisdiction section, Plaintiff states this case belongs in federal court based on diversity jurisdiction. Compl. at 2. In the Claims section, Plaintiff alleges Defendants violated “U.S. Code Title 18, U.S.C. Title 15” through “[r]eckless and purposeful disregard for the statute, intentional deceit.” *Id.* at 4. Plaintiff also alleges “[r]eckless and deliberate, deceitful and

1 purposeful violations of Plaintiff’s Fourth Amendment Rights under false pretenses, including
2 falsely under color of law.” *Id.* Plaintiff also includes an exhibit, in which he alleges:

3 The criminal and tortious activities of the Defendants in this case, and
4 of their proxies include and included, but are not limited to inciting
5 public drunkenness, pressuring others to ingest contaminated food,
6 smashing borrowed automobiles, slander, illegally changing vital
7 records and documents, illegally obtaining confidential records and
8 documents, home invasion and property damage, burglary, Invasion
9 of privacy and violation of right to privacy. Illegal substitution of
10 “surrogates” in the place of relatives at family gatherings and events,
11 cash theft, automobile theft, property theft, assault, tampering, using
social engineering techniques in the spread of the narcotics trade,
prostitution, deliberate misinformation and fraud, and other unlawful
acts. The Defendants in virtually all instances pretended to be doing
administrative work when committing their hateful, malevolent,
malicious, unlawful acts. Some investigation should be made as to
how the unlawful acts of the Defendants in this case were paid for or
sponsored, financed, the resulting payoffs and the related source of
funds.

12 *Id.* at 6. Plaintiff alleges “[t]hese illegal acts have taken place starting on or about 1975 up to the
13 present time. This filing is to bring the unlawful and tortious acts of the Defendants to the light of
14 day, and to initiate proceedings in order to compel redress in the amount of \$ 10 million U.S. for
15 the wrongful conduct of these individuals.” *Id.*

16 **III. IN FORMA PAUPERIS APPLICATION**

17 A district court may authorize the start of a civil action in forma pauperis if the court is
18 satisfied the would-be plaintiff cannot pay the filing fees required to pursue the lawsuit. *See*
19 28 U.S.C. § 1915(a)(1). Based on the information provided in his application, the Court was
20 initially unable to determine whether Plaintiff was entitled to proceed in forma pauperis.
21 Specifically, when asked if presently employed, Plaintiff answered yes, but he then stated that his
22 gross and net income is “N/A.” The Court denied his application without prejudice and ordered
23 him to either (1) file an amended application to proceed in forma pauperis that includes his gross
24 and net income or (2) pay the filing fee. ECF No. 4. In response, Plaintiff filed a letter stating he
25 “has been attacked by some very efficient and ambitious doctors, unknown to Plaintiff, essentially,
26 but guided by hateful people that include Plaintiff’s mother and spouse (both addicts, and addicted
27 viciously to various substances and chemicals at various times). Derivative of this, . . . Plaintiff
28 has had essentially again no work in some time and thus no income.” ECF No. 5. Based on this

1 clarification, the Court finds Plaintiff has submitted the required documentation demonstrating an
2 inability to pay the costs of this action, and it is evident from the application that the listed assets
3 and income are insufficient to enable payment of the fees. Accordingly, the Court **GRANTS** the
4 application to proceed in forma pauperis.

5 **IV. SUA SPONTE SCREENING UNDER 28 U.S.C. § 1915(e)(2)**

6 **A. Legal Standard**

7 A court must dismiss an in forma pauperis complaint before service of process if it is
8 frivolous, fails to state a claim, or contains a complete defense to the action on its face. 28 U.S.C.
9 § 1915(e)(2). Section 1915(e)(2) parallels the language of Federal Rule of Civil Procedure
10 12(b)(6) regarding dismissals for failure to state a claim. *See id.*; *see also Lopez v. Smith*, 203
11 F.3d 1122, 1126-27 (9th Cir. 2000). As such, the complaint must allege facts that plausibly
12 establish each defendant’s liability. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555-57 (2007).
13 “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to
14 draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v.*
15 *Iqbal*, 556 U.S. 662, 678 (2009).

16 A complaint must also comply with Federal Rule of Civil Procedure 8, which requires the
17 complaint to contain “a short and plain statement of the claim showing that the pleader is entitled
18 to relief.” Fed. R. Civ. P. 8(a)(2). The failure to comply with Rule 8 is a basis for dismissal that is
19 not dependent on whether the complaint is without merit. *McHenry v. Renne*, 84 F.3d 1172, 1179
20 (9th Cir. 1996). Accordingly, even claims which are not on their face subject to dismissal under
21 Rule 12(b)(6) may still be dismissed for violating Rule 8(a). *Id.*

22 As Plaintiff is proceeding without representation by a lawyer, the Court must construe the
23 complaint liberally. *See Garaux v. Pulley*, 739 F.2d 437, 439 (9th Cir. 1984). However, it may
24 not add to the factual allegations in the complaint. *See Pena v. Gardner*, 976 F.2d 469, 471 (9th
25 Cir. 1992). Litigants unrepresented by a lawyer remain bound by the Federal Rules and Local
26 Rules of this District. *See N.D. Cal. Civ. L.R. 3-9(a).*

1 **B. Application**

2 1. **Federal Subject Matter Jurisdiction**

3 Federal courts are courts of limited jurisdiction. *See Kokkonen v. Guardian Life Ins. Co. of*
4 *Am.*, 511 U.S. 375, 377 (1994). As such, they “have an independent obligation to ensure that they
5 do not exceed the scope of their jurisdiction.” *Henderson ex rel. Henderson v. Shinseki*, 562 U.S.
6 428, 434 (2011); *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1116 (9th Cir. 2004) (noting that
7 district courts are “obligated to consider sua sponte whether [they] have subject matter
8 jurisdiction”). Federal courts are presumptively without jurisdiction over civil cases and the
9 burden of establishing the contrary rests upon the party asserting jurisdiction. *Kokkonen*, 511 U.S.
10 at 377.

11 There are two bases for federal subject matter jurisdiction: (1) federal question jurisdiction
12 under 28 U.S.C. § 1331 and (2) diversity jurisdiction under 28 U.S.C. § 1332. A district court has
13 federal question jurisdiction in “all civil actions arising under the Constitution, laws, or treaties of
14 the United States.” *Id.* at § 1331. A cause of action “arises under federal law only when the
15 plaintiff’s well-pleaded complaint raises issues of federal law.” *Hansen v. Blue Cross of Cal.*, 891
16 F.2d 1384, 1386 (9th Cir. 1989). A district court has diversity jurisdiction “where the matter in
17 controversy exceeds the sum or value of \$75,000 . . . and is between citizens of different states, or
18 citizens of a State and citizens or subjects of a foreign state.” *Id.*

19 Here, Plaintiff alleges the Court has diversity jurisdiction, yet he also alleges he and at
20 least one of the defendants reside in California. Compl. at 2. As such, the Court lacks diversity
21 jurisdiction.

22 As to federal question jurisdiction, it is unclear what claims Plaintiff seeks to bring.
23 Plaintiff refers generally to “U.S. Code Title 18, U.S.C. Title 15.” To the extent Plaintiff seeks to
24 bring claims under Title 18, that Title deals with federal crimes and criminal procedure. It is well-
25 established that “private individuals lack standing to assert claims for relief based on criminal
26 statutes.” *Redmond v. United States*, 2022 WL 1304472, at *3 (N.D. Cal. May 2, 2022)
27 (collecting cases); *see also Aldabe v. Aldabe*, 616 F.2d 1089, 1092 (9th Cir. 1980) (“These
28 criminal provisions, however, provide no basis for civil liability.”). Thus, “[i]ndividuals cannot

1 file criminal charges in the United States District Court. Rather, criminal proceedings in federal
2 court are initiated by the government, usually through the United States Attorney’s Office.”
3 *Candy-Anh-Thu:Tran v. Daniel*, 2017 WL 6513414, at *2 (N.D. Cal. Dec. 20, 2017) (citing
4 *Harbor v. Kim*, 2017 WL 443164, at *4 (C.D. Cal. Jan. 31, 2017) (“The decision to institute
5 criminal proceedings lies within the discretion of the proper state or federal prosecuting
6 authority”); *see also United States v. Nixon*, 418 U.S. 683, 693 (1974) (observing that the
7 executive branch has “exclusive authority and absolute discretion to decide whether to prosecute a
8 case”). As such, Plaintiff lacks standing to bring claims under Title 18. *See Aldabe*, 616 F.2d at
9 1092. If Plaintiff believes that the defendants engaged in criminal conduct, he must contact
10 federal law enforcement or the United States Attorney’s Office and present the facts supporting
11 that belief to them.

12 To the extent Plaintiff seeks to bring claims under Title 15 of the United States Code, that
13 Title encompasses a wide range of laws related to commerce and trade, including antitrust laws,
14 consumer protection, and various regulatory provisions. Many sections of Title 15 outline
15 regulatory frameworks and standards without explicitly authorizing private lawsuits, instead
16 leaving enforcement to government agencies, such as the Federal Trade Commission or the
17 Department of Justice. Further, Plaintiff’s complaint does not tie any of Defendants’ alleged
18 misconduct to any particular provision of law.

19 Plaintiff also appears to allege Defendants violated his Fourth Amendment rights, but he
20 brings this claim against private actors—i.e., persons who are not government or state actors.
21 “Individuals bringing actions against private parties for infringement of their constitutional rights .
22 . . . must show that the private parties’ infringement somehow constitutes state action.” *George v.*
23 *Pac.-CSC Work Furlough*, 91 F.3d 1227, 1229 (9th Cir. 1996) (per curiam) (citations omitted); *see*
24 *also United States v. Jacobsen*, 466 U.S. 109, 113 (1984) (explaining that the Fourth Amendment
25 “proscribes only governmental action; it is wholly inapplicable to a search or seizure, even an
26 unreasonable one, effected by a private individual not acting as an agent of the Government”)
27 (cleaned up). The presumption is that a private actor’s conduct is not state action. *Florer v.*
28 *Congregation Pidyon Shevuym, N.A.*, 639 F.3d 916, 922 (9th Cir. 2011). As such, without

1 allegations demonstrating how and why he may properly assert his constitutional claims against
2 these defendants, Plaintiff has not shown the Court has subject matter jurisdiction based on a
3 federal question.

4 Accordingly, Plaintiff must file an amended complaint that clarifies how this Court has
5 subject matter jurisdiction over his claims.

6 **2. Rule 8**

7 Plaintiff's complaint also does not comply with Federal Rule of Civil Procedure 8.
8 "Something labeled a complaint but written . . . without simplicity, conciseness and clarity as to
9 whom plaintiffs are suing for what wrongs, fails to perform the essential functions of a
10 complaint." *McHenry v. Renne*, 84 F.3d 1172, 1180 (9th Cir. 1996). To comply with Rule 8, a
11 complaint need not provide detailed factual allegations, but it is "a plaintiff's obligation to provide
12 the grounds of his entitle[ment] to relief." *Twombly*, 550 U.S. at 555 (internal citations and
13 quotations omitted). A plaintiff must do more than assert "labels and conclusions, and a formulaic
14 recitation of the elements of a cause of action will not do." *Id.* Rather, the plaintiff must provide
15 sufficient factual allegations "to state a claim to relief that is plausible on its face." *Id.* at 570; *see*
16 *also Coleman v. Beard*, 2015 WL 395662, at *4 (N.D. Cal. Jan. 29, 2015) ("While the federal
17 rules require brevity in pleading, a complaint nevertheless must be sufficient to give the
18 defendants 'fair notice' of the claim and the 'grounds upon which it rests.'") (quoting *Erickson v.*
19 *Pardus*, 551 U.S. 89, 93 (2007)).

20 Here, Plaintiff's generalized allegations do not put Defendants on notice as to what specific
21 laws or rights he thinks they violated, and a putative defendant would not know how to respond.
22 Thus, to comply with Rule 8's pleading requirement, Plaintiff must amend the complaint to allege:
23 (1) the specific laws or rights he thinks Defendants violated; (2) for each law or right, state the
24 specific factual allegations that connect each defendant with the alleged wrongdoing, including
25 dates, the names of people involved, and what those people did to him; and (3) how he was harmed.

26 **3. Frivolousness**

27 Finally, it appears at least portions of Plaintiff's claims are frivolous. "A complaint . . . is
28 frivolous where it lacks an arguable basis either in law or in fact." *Denton v. Hernandez*, 504

1 U.S. 25, 31 (1992) (quoting *Neitzke v. Williams*, 490 U.S. 319, 325 (1989)). Frivolous claims are
2 “claims describing fantastic or delusional scenarios” *Id.* at 32. When determining whether to
3 dismiss a complaint as “frivolous” under 28 U.S.C. § 1915(e)(2)(B)(i), the court has ““the unusual
4 power to pierce the veil of the complaint’s factual allegations,”” meaning it “is not bound, as it
5 usually is when making a determination based solely on the pleadings, to accept without question
6 the truth of the plaintiff’s allegations.” *Denton*, 504 U.S. at 32 (quoting *Neitzke*, 490 U.S. at 327).

7 Plaintiff alleges Defendants used “illegal substitution of ‘surrogates’ in the place of
8 relatives at family gatherings and events,” “us[ed] social engineering techniques in the spread of
9 the narcotics trade, prostitution, deliberate misinformation and fraud, and other unlawful acts,” and
10 “pretended to be doing administrative work when committing their hateful, malevolent, malicious,
11 unlawful acts.” Compl. at 6. “An in forma pauperis complaint may not be dismissed . . . simply
12 because the court finds the plaintiff’s allegations unlikely.” *Denton*, 504 U.S. at 33. However, as
13 the Ninth Circuit has explained, frivolous litigation “is not limited to cases in which a legal claim
14 is entirely without merit [A] person with a measured legitimate claim may cross the line into
15 frivolous litigation by asserting facts that are grossly exaggerated or totally false.” *Molski v.*
16 *Evergreen Dynasty Corp.*, 500 F.3d 1047, 1060–61 (9th Cir. 2007). Plaintiff’s allegations are of
17 such a nature and, as currently plead, are subject to dismissal.

18 **V. CONCLUSION**

19 For the reasons above, the Court **GRANTS** the application to proceed in forma pauperis
20 but finds the complaint fails to state a claim pursuant to 28 U.S.C. § 1915(e). However, given the
21 pro se status of Plaintiff, and because it is not clear that the deficiencies of the complaint could not
22 be cured by amendment, the Court shall grant Plaintiff the opportunity to file an amended
23 complaint. Accordingly, the Court **ORDERS** Plaintiff to file an amended complaint by January
24 16, 2024.

25 **A. REQUIREMENTS FOR AMENDED COMPLAINT**

26 Because an amended complaint replaces the previous complaint, it may not incorporate
27 claims or allegations in the original complaint by reference. *See Ferdik v. Bonzelet*, 963 F.2d
28 1258, 1262 (9th Cir. 1992). Instead, any amendment must include all of the facts and claims to be

1 presented and all of the defendants that are to be sued. In addition, any amended complaint must
2 include the following sections:

3 **Caption Page**

4 On the first page, list the names of the defendant(s), the case number
5 used in this order ([23-cv-06094-TSH](#)), the title (“FIRST AMENDED
6 COMPLAINT”), and write “Demand for Jury Trial” if you want your
7 case to be heard by a jury.

8 **Form of Pleadings**

9 The factual allegations and claims must be written in numbered
10 paragraphs, each limited as far as practicable to a single set of
11 circumstances.

12 **Subject Matter Jurisdiction**

13 The first numbered paragraph in your complaint (labeled
14 “Jurisdiction”) should explain why this Court has the power to decide
15 this kind of case. A federal court can hear a case based on a federal
16 question jurisdiction (a violation of federal law under 28 U.S.C. §
17 1331) or diversity jurisdiction (when all plaintiffs and all defendants
18 are citizens of different states disputing more than \$75,000) under 28
19 U.S.C. § 1332.

20 **Parties**

21 In separate paragraphs for each party, identify the plaintiff(s) and
22 defendant(s) in the case.

23 **Statement of Facts**

24 Explain the important facts in your case in numbered paragraphs,
25 describing how the defendant(s) violated the law and how you have
26 been injured.

27 **Claims**

28 Include a separate heading for each legal claim (Claim 1, Claim 2,
etc.), identifying the specific law that you think the defendant(s)
violated and explaining in numbered paragraphs what each defendant
did to violate each law.

B. RESOURCES

Plaintiff may wish to seek assistance from the Legal Help Center, a free service offered by
the Justice & Diversity Center of the Bar Association of San Francisco. You may request an
appointment by emailing fedpro@sfbar.org or calling 415-782-8982. At the Legal Help Center,
you will be able to speak with an attorney who may be able to provide basic legal help but not
representation. More information is available at <http://cand.uscourts.gov/helpcentersf>.

Plaintiff may also wish to obtain a copy of this District’s *Handbook for Litigants Without a
Lawyer*, which provides instructions on how to proceed at every stage of your case. The

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handbook is available in person at the Clerk’s Office and online at:

<http://cand.uscourts.gov/prosehandbook>.

IT IS SO ORDERED.

Dated: December 15, 2023



THOMAS S. HIXSON
United States Magistrate Judge