

1 that were not pleaded. In construing the complaint liberally, the Court does not supply
2 elements of the claim that were not pleaded. See *Byrd v. Maricopa County Sherriff's Dept.*,
3 629 F.3d 1135, 1140 (9th Cir. 2011).

4 The amended complaint seeks declaratory relief and injunctive relief, requiring the
5 Social Security Administration to allow her to use a social security number she previously
6 used for over 35 years. The complaint doesn't explain how Paul was assigned the number,
7 or give any information at all about how or why the SSA denied her permission to continue
8 using it. Nor does it provide information the Court's previous screening order said was
9 needed, such as whether someone else is currently assigned the social security number
10 (which could make injunctive relief unavailable). Paul is not permitted to be vague about any
11 of this. Without this information, the Court could not determine that Paul is entitled to the
12 relief she seeks — even accepting all of the amended complaint's allegations as true.

13 As an alternative, Paul asks that the SSA issue her a new number. But she hasn't
14 alleged that she ever applied for a social security card,¹ that the SSA ever refused to issue
15 one, or if so, how, when, and why the SSA did so. If Paul hasn't applied for a social security
16 card, the SSA would not have violated any duty by failing to issue one.

17 The amended complaint does allege that the SSA sent her a notice, which she has
18 attached, denying her permission to continue using her old number. But the attachment is
19 not a denial of permission to use her old number. Instead, it is a letter denying her tort claim
20 for \$1.6 million dollars for emotional distress, physical injury, and loss of income due to the
21 SSA's earlier notifications of her about the social security number she was using. The earlier
22 notifications would probably provide needed information, such as the reason for the SSA's
23 denial, but they aren't attached. If she were suing under the Federal Tort Claims Act
24 (FTCA), this letter would would go far towards explaining her claim.

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27 ¹ The amended complaint says she "acquired" her old social security number in 1978
28 (Am. Compl., 3:22–23), but doesn't say how she acquired it. For example, if she
appropriated her husband's or a relative's social security number, she wasn't entitled to use
it. Nor does she allege that she reapplied after losing the right to use her old number.

1 But Paul is not suing under the FTCA, nor could she do successfully so. The FTCA
2 authorizes private tort actions against the United States “under circumstances where the
3 United States, if a private person, would be liable to the claimant in accordance with the law
4 of the place where the act or omission occurred,” 28 U.S.C. § 1346(b)(1); see *United States*
5 *v. Olson*, 546 U.S. 43, 44 (2005). The mistreatment Paul is complaining of, wrongly refusing
6 to authorize her to continue using her old social security number, is not a tort that a private
7 person can be liable for. A private person cannot issue social security numbers, or grant or
8 withhold permission to use a particular social security numbers; only the federal government
9 can do that. Under the Federal Employees Liability Reform and Tort Compensation Act of
10 1988, individual officials acting within the scope of their duties also cannot be sued for
11 common-law tort claims; the only potential defendant is the United States. See 28 U.S.C. §
12 2679(b)(1).

13 As the Court’s previous order of dismissal informed Paul, she might be able to bring
14 claims pursuant to *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971), or under
15 the Administrative Procedures Act or some other statute. But in order to do so, she would
16 need to plead facts adequately showing that she has a claim under these.

17 Because the amended complaint is inadequate, it is **DISMISSED WITHOUT**
18 **PREJUDICE**. If Paul believes she can successfully amend in order to cure the defects this
19 order and the previous order of dismissal have identified, she may file an amended
20 complaint no later than **March 17, 2014**. Paul is cautioned that she is not entitled to
21 unlimited chances to amend, see *Metzler Inv. GMBH v. Corinthian Colleges, Inc.*, 540 F.3d
22 1049, 1072 (9th Cir. 2008), so she should take care to address the problems this order and
23 the previous order of dismissal identify. The newly-amended complaint must be complete
24 in itself, containing all the allegations Paul wishes to make, and re-attaching any exhibits she
25 wishes to be considered. See Civil Local Rule 15.1. The Court will not assume she can, or
26 intends to, allege any facts she leaves out, even if she included them in previous complaints.

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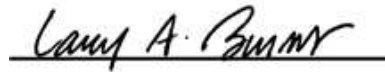
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1 The amended complaint must be filed and entered in the docket by March 17, not
2 merely mailed. If Paul fails to amend within the time permitted, this action will be dismissed
3 without leave to amend.

4 Finally, the Clerk erroneously issued a summons in this case (Docket no. 6). That
5 summons is **QUASHED** and the Clerk is directed to remove it from the docket. Paul is
6 **ORDERED** not to serve it.

7 **IT IS SO ORDERED.**

8 DATED: February 17, 2014

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10 **HONORABLE LARRY ALAN BURNS**
11 United States District Judge
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