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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

HUSSAIN D. VAHIDALLAH,
Plaintiff,
v.
EMIRATES AIRLINE TERMINAL
4 JOHN F. KENNEDY
INTERNATIONAL AIRPORT,
Defendant.

Case No. 18-cv-0419 DMS (MDD)

**ORDER (1) GRANTING MOTION
TO PROCEED *IN FORMA*
PAUPERIS AND (2) DISMISSING
ACTION FOR LACK OF
SUBJECT MATTER
JURISDICTION AND FOR
FAILURE TO STATE A CLAIM**

Plaintiff Hussain D. Vahidallah, a nonprisoner proceeding *pro se*, filed a Complaint against Defendant Emirates Airline Terminal 4 John F. Kennedy International Airport. Plaintiff has not paid the \$400 civil filing fee required to commence this action, but rather, has filed a motion to proceed *in forma pauperis* (“IFP”) pursuant to 28 U.S.C. § 1915(a).

A. Motion to Proceed IFP

Pursuant to 28 U.S.C. § 1915(a), a court may authorize the commencement of a suit without prepayment of fees if plaintiffs submit an affidavit, including a statement of all their assets, showing that they are unable to pay filing fees. *See* 28 U.S.C. § 1915(a). Here, Plaintiff has submitted an affidavit sufficiently showing

1 that he lacks the financial resources to pay filing fees. Accordingly, Plaintiff’s
2 motion to proceed IFP is granted.

3 **B. *Sua Sponte* Screening**

4 Any complaint filed pursuant to the IFP provisions of 28 U.S.C. § 1915(a), is
5 subject to a mandatory and *sua sponte* review and dismissal by the Court, if it finds
6 the Complaint is “frivolous, malicious, failing to state a claim upon which relief may
7 be granted, or seeking monetary relief from a defendant immune from such relief.”
8 28 U.S.C. § 1915(e)(2)(B); *Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2001)
9 (“[T]he provisions of 28 U.S.C. § 1915(e)(2)(B) are not limited to prisoners.”). In
10 addition, “[i]f the court determines at any time that it lacks subject-matter
11 jurisdiction, the court must dismiss the action.” Fed. R. Civ. P. 12(h)(3).

12 Federal courts—unlike state courts—are courts of limited jurisdiction and
13 lack inherent or general subject matter jurisdiction. Federal courts can only
14 adjudicate those cases in which the United States Constitution and Congress
15 authorize them to adjudicate. *See Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375,
16 377 (1994). In the federal courts, subject matter jurisdiction may arise from either
17 “federal question jurisdiction” or “diversity jurisdiction.” *Caterpillar Inc. v.*
18 *Williams*, 482 U.S. 386, 392 (1987); *see also* 28 U.S.C. §§ 1331–32. To invoke
19 diversity jurisdiction, the complaint must allege that “the matter in controversy
20 exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between
21 ... citizens of different States ... [or] citizens of a State and citizens or subjects of a
22 foreign state....” 28 U.S.C. § 1332(a). To invoke federal question jurisdiction, the
23 complaint must allege that the “action[] aris[es] under the Constitution, laws, or
24 treaties of the United States.” 28 U.S.C. § 1331. Federal courts are presumptively
25 without jurisdiction over civil actions and the burden of establishing the contrary
26 rests upon the party asserting jurisdiction. *Kokkonen*, 511 U.S. at 377. Subject
27 matter jurisdiction is determined from the face of the complaint. *See Caterpillar*
28 *Inc.*, 482 U.S. at 392 (“federal jurisdiction exists only when a federal question is

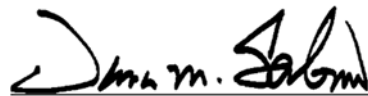
1 presented on the face of the plaintiff's properly pleaded complaint.”).

2 Plaintiff indicates on the civil cover sheet that jurisdiction in this Court is
3 based on federal question pursuant to § 1331. However, a review of the Complaint
4 indicates there is only a state law claim for fraud. Thus, contrary to Plaintiff's
5 assertion, the Court does not have federal subject matter jurisdiction. Moreover,
6 Plaintiff has failed to meet its burden of establishing diversity jurisdiction. It is
7 unclear whether Plaintiff has brought suit against John F. Kennedy International
8 Airport and/or Emirates Airlines. Although Plaintiff has stated in the caption of the
9 Complaint that the Airport is located in New York, the allegations pertain solely to
10 Emirates Airline, and the Complaint does not address the citizenship of Emirates
11 Airline.

12 In any event, even if the Court had subject matter jurisdiction over this action,
13 the Complaint is subject to *sua sponte* dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii).
14 The Complaint is comprised of unintelligible assertions that fail to allege Plaintiff's
15 entitlement to relief. The allegations in the Complaint are insufficient to put
16 Defendant on notice of the claim against it, as required by Federal Rule of Civil
17 Procedure 8. Moreover, the allegations in the Complaint certainly do not satisfy the
18 heightened pleading standards of Federal Rule of Civil Procedure 9(b) required to
19 state a claim for fraud. Accordingly, the Court *sua sponte* dismisses the Complaint.
20 The Clerk of Court is directed to close this case.

21 **IT IS SO ORDERED.**

22 Dated: April 10, 2018



23 Hon. Dana M. Sabraw
24 United States District Judge