

1 to curing its deficiencies, unless it is clear from the face of the complaint that the deficiencies could not be
2 cured by amendment. *See Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

3 Fed.R.Civ.P. 12(b)(6) provides for dismissal of a complaint for failure to state a claim upon which
4 relief can be granted. Review under Rule 12(b)(6) is essentially a ruling on a question of law. *See Chappel*
5 *v. Laboratory Corp. Of America*, 232 F.3d 719, 723 (9th Cir. 2000). A properly pled complaint must
6 provide a short and plain statement of the claim showing that the pleader is entitled to relief. Fed.R.Civ.P.
7 8(a)(2); *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Although Rule 8 does not require
8 detailed factual allegations, it demands more than “labels and conclusions” or a “formulaic recitation of
9 the elements of a cause of action.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). The court must accept as
10 true all well-pled factual allegations contained in the complaint, but the same requirement does not apply
11 to legal conclusions. *Id.* at 678-79. Mere recitals of the elements of a cause of action, supported only by
12 conclusory allegations, do not suffice. *Id.* at 678. Moreover, where the claims in the complaint have not
13 crossed the line from plausible to conceivable, the complaint should be dismissed. *Twombly*, 550 U.S. at
14 570. Allegations of a *pro se* complaint are held to less stringent standards than formal pleading drafted by
15 lawyers. *Hebbe v. Pliler*, 627 F.3d 338, 342 & n.7 (9th Cir. 2010) (finding that liberal construction of *pro*
16 *se* pleadings is required after *Twombly* and *Iqbal*).

17 Plaintiff’s Complaint challenges a decision by the Social Security Administration (“SSA”) denying
18 Plaintiff disability insurance benefits. Before Plaintiff can sue the SSA in federal court, he must exhaust
19 his administrative remedies. 42 U.S.C. § 405(g). *See Bass v. Social Sec. Admin.*, 872 F.2d 832, 833 (9th
20 Cir. 1989) (*per curium*) (“Section 405(g) provides that a civil action may be brought only after (1) the
21 claimant has been party to a hearing held by the Secretary, and (2) the Secretary has made a final decision
22 on the claim”). Generally, if the SSA denies a claimant’s application for disability benefits, he can request
23 reconsideration of the decision. If the claim is denied at the reconsideration level, a claimant may request
24 a hearing before an Administrative Law Judge (“ALJ”). If the ALJ denies the claim, a claimant may request
25 review of the decision by the Appeals Council. If the Appeals Council declines to review the ALJ’s
26 decision, a claimant may then request review by the United States District Court. *See generally* 20 C.F.R.
27 §§ 404, 416. Plaintiff alleges that, on February 4, 2014, the Appeals Council denied his request for review,
28

1 and the ALJ's decision became the final decision of the Commissioner. Thus, it appears Plaintiff has
2 exhausted his administrative remedies.

3 Once Plaintiff has exhausted his administrative remedies, he can obtain review of a SSA decision
4 denying benefits by commencing a civil action within sixty days after notice of a final decision. *Id.* This
5 case was filed within that 60-day period. An action for judicial review of a determination by the SSA must
6 be brought in a District Court of the United States for the judicial district in which the Plaintiff resides. *Id.*
7 Plaintiff alleges that he resides in this District. The Complaint should contain a plain, short, and concise
8 statement identifying the nature of Plaintiff's disagreement with the determination made by the Social
9 Security Administration and show that Plaintiff is entitled to relief. A district court can affirm, modify,
10 reverse, or remand a decision if Plaintiff has exhausted his administrative remedies and timely filed a civil
11 action. However, judicial review of the Commissioner's decision to deny benefits is limited to determining:
12 (a) whether there is substantial evidence in the record as a whole to support the findings of the
13 Commissioner; and (b) whether the correct legal standards were applied. *Morgan v. Commissioner of the*
14 *Social Security Adm.*, 169 F.3d 595, 599 (9th Cir. 1999).

15 Plaintiff's Complaint seeks judicial review of the Commissioner's decision denying Plaintiff
16 Supplemental Security Income benefits and requests the court reverse that decision, or alternatively, remand
17 this matter for a new hearing. Plaintiff contends there is not substantial medical or vocational evidence in
18 the record to support: (a) the legal conclusion he is not disabled withing the meaning of the Social Security
19 Act; or (b) the Commissioner's finding that Plaintiff could perform substantial gainful activity. He asserts
20 that the record supports a finding that Plaintiff is disabled and has been continuously disabled at all relevant
21 times. Finally, Plaintiff alleges new evidence exists that warrants a remand of this matter for further
22 proceedings. Accordingly, Plaintiff has stated a claim for initial screening purposes under 28 U.S.C. §
23 1915.

24 Based on the foregoing,

25 **IT IS ORDERED** that:

- 26 1. Plaintiff's request to proceed *in forma pauperis* is **GRANTED**. Plaintiff shall not be
27 required to pay the filing fee of four hundred dollars.

