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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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GRACE ALBANESE,  
  
Plaintiff,  
  
v.  
  
LAS VEGAS METROPOLITAN POLICE  
DEPARTMENT,  
  
Defendant.

Case No. 2:17-cv-01574-RFB-PAL

**REPORT OF FINDINGS AND  
RECOMMENDATION**

(IFP Application – ECF No. 1)

This matter is before the court on Plaintiff Grace Albanese’s Application to Proceed *In Forma Pauperis* (ECF No. 1) pursuant to 28 U.S.C. § 1915 and LSR 1-1 of the Local Rules of Practice. This Application is referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(A) and (B) and LR IB 1-3 and 1-4 of the Local Rules of Practice.

**I. IN FORMA PAUPERIS APPLICATION**

Ms. Albanese is proceeding in this action *pro se*, which means that she is not represented by an attorney. *See* LSR 2-1. She has requested authority pursuant to 28 U.S.C. § 1915 to proceed *in forma pauperis* (“IFP”), meaning without prepaying the filing fees, and submitted a proposed complaint. Pursuant to 28 U.S.C. § 1914(a) and the Judicial Conference Schedule of Fees, a filing fee and administrative fee totaling \$400 is required to commence a civil action in a federal district court. The court may authorize a person to commence an action without the prepayment of fees and costs if the person files an IFP application including an affidavit stating that he or she is unable to pay the initial fees. *See* 28 U.S.C. § 1915(a)(1); LSR 1-1. However, the court must apply “even-handed care” to ensure that “federal funds are not squandered to underwrite, at public expense, either frivolous claims” or the colorable claims of a plaintiff “who is financially able, in whole or in material part, to pull his own oar.” *Temple v. Ellerthorpe*, 586 F. Supp. 848, 850 (D.R.I. 1984)

1 (collecting cases). A “district court may deny leave to proceed in forma pauperis at the outset if it  
2 appears from the face of the proposed complaint that the action is frivolous or without merit.”  
3 *Minetti v. Port of Seattle*, 152 F.3d 1113, 1115 (9th Cir. 1998) (quoting *Tripati v. First Nat’l Bank*  
4 *& Trust*, 821 F.2d 1368, 1370 (9th Cir. 1987)). A complaint that “merely repeats pending or  
5 previously litigated claims” is frivolous. See, e.g., *Cato v. United States*, 70 F.3d 1103, 1105 n.2  
6 (9th Cir. 1995) (citation omitted); see also *Denton v. Hernandez*, 504 U.S. 25, 30 (1992); *Martinez*  
7 *v. Bureau of Immigration & Customs Enf’t*, 316 F. App’x 640, 641 (9th Cir. 2009).

8 Since March 2016, Ms. Albanese has filed 45 federal cases in the District of Nevada, 42 of  
9 which are currently ongoing and 13 of which are pending before the undersigned magistrate judge.<sup>1</sup>  
10 In all, she has sued the Las Vegas Metropolitan Police Department (“LVMPD”) 30 times in just  
11 over a year. Most of Albanese’s actions assert the same or very similar allegations: various persons

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12 <sup>1</sup> See *Albanese v. Fed. Bureau of Investigations*, 2:16-cv-00529-KJD-NJK; *Albanese v. Transp. Security*  
13 *Admin.*, 2:16-cv-00530-GMN-CWH; *Albanese v. Homeland Security*, 2:16-cv-00531-RFB-VCF; *Albanese*  
14 *v. Las Vegas Metro. Police Dep’t*, 2:16-cv-00532-RFB-GWF; *Albanese v. Regional Transp. Comm’n of*  
15 *So. Nev.*, 2:16-cv-01882-APG-PAL; *Albanese v. Las Vegas Metro Police Dep’t*, 2:17-cv-00577-GMN-  
16 *PAL*; *Albanese v. Las Vegas Metro. Police Dep’t*, 2:17-cv-01087-GMN-GWF; *Albanese v. Las Vegas*  
17 *Metro. Police Dep’t*, 2:17-cv-01284-MMD-NJK; *Albanese v. Las Vegas Metro. Police Dep’t*, 2:17-cv-  
18 *01285-JCM-VCF*, appeal docketed, No. 17-16127 (9th Cir. May 31, 2017); *Albanese v. Fed. Bureau of*  
19 *Investigations*, 2:17-cv-01286-JAD-PAL; *Albanese v. Dep’t of Homeland Security*, 2:17-cv-01287-JCM-  
20 *PAL*; *Albanese v. Las Vegas Metro. Police Dep’t*, 2:17-cv-01520-JAD-CWH; *Albanese v. Las Vegas*  
21 *Metro. Police Dep’t*, 2:17-cv-01544-RFB-PAL; *Albanese v. Las Vegas Metro. Police Dep’t*, 2:17-cv-  
22 *01573-JCM-GWF*; *Albanese v. Las Vegas Metro. Police Dep’t*, 2:17-cv-01574-RFB-PAL; *Albanese v. Fed.*  
23 *Bureau of Investigations*, 2:17-cv-01599-JAD-VCF; *Albanese v. Las Vegas Metro. Police Dep’t*, 2:17-cv-  
24 *01600-JAD-VCF*; *Albanese v. Las Vegas Metro. Police Dep’t*, 2:17-cv-01613-APG-PAL; *Albanese v. Fed.*  
25 *Bureau of Investigations*, 2:17-cv-01614-JAD-PAL; *Albanese v. Las Vegas Metro. Police Dep’t*, 2:17-cv-  
26 *01633-JAD-VCF*; *Albanese v. Las Vegas Metro. Police Dep’t*, 2:17-cv-01634-RFB-CWH; *Albanese v. Fed.*  
27 *Bureau of Investigations*, 2:17-cv-01635-JAD-CWH; *Albanese v. Las Vegas Metro. Police Dep’t*, 2:17-cv-  
28 *01640-MMD-VCF*; *Albanese v. Fed. Bureau of Investigations*, 2:17-cv-01641-JAD-GWF; *Albanese v.*  
*Homeland Security*, 2:17-cv-01642-RFB-GWF; *Albanese v. Fed. Bureau of Investigations*, 2:17-cv-01662-  
*JAD-NJK*; *Albanese v. Homeland Security*, 2:17-cv-01663-JCM-NJK; *Albanese v. Las Vegas Metro. Police*  
*Dep’t*, 2:17-cv-01664-JCM-GWF; *Albanese v. Las Vegas Metro. Police Dep’t*, 2:17-cv-01735-JCM-PAL;  
*Albanese v. Las Vegas Metro. Police Dep’t*, 2:17-cv-01780-JCM-VCF; *Albanese v. Las Vegas Metro.*  
*Police Dep’t*, 2:17-cv-01782-JCM-VCF; *Albanese v. Las Vegas Metro. Police Dep’t*, 2:17-cv-01795-JAD-  
*GWF*; *Albanese v. Las Vegas Metro. Police Dep’t*, 2:17-cv-01807-JCM-GWF; *Albanese v. Las Vegas*  
*Metro. Police Dep’t*, 2:17-cv-01808-APG-GWF; *Albanese v. Las Vegas Metro. Police Dep’t*, 2:17-cv-  
*01832-KJD-PAL*; *Albanese v. Las Vegas Metro. Police Dep’t*, 2:17-cv-01852-JCM-GWF; *Albanese v. Fed.*  
*Bureau of Investigations*, 2:17-cv-01871-JAD-VCF; *Albanese v. Las Vegas Metro. Police Dep’t*, 2:17-cv-  
*01872-RFB-VCF*; *Albanese v. Homeland Security*, 2:17-cv-01874-RFB-VCF; *Albanese v. Las Vegas*  
*Metro. Police Dep’t*, 2:17-cv-01896-JCM-VCF; *Albanese v. Las Vegas Metro. Police Dep’t*, 2:17-cv-  
*01903-MMD-GWF*; *Albanese v. Las Vegas Metro. Police Dep’t*, 2:17-cv-01904-JCM-PAL; *Albanese v.*  
*Las Vegas Metro. Police Dep’t*, 2:17-cv-01972-JAD-NJK; *Albanese v. Las Vegas Metro. Police Dep’t*,  
2:17-cv-01973-RFB-PAL; *Albanese v. Las Vegas Metro. Police Dep’t*, 2:17-cv-01974-JAD-PAL.

1 stalk or spy on Albanese in her bedroom and when she travels around Las Vegas, sometimes using  
2 listening devices or hacking into her phone, but federal and state law enforcement officers ignore  
3 her requests for help and refuse to investigate or arrest the wrongdoers. She asserts similar legal  
4 claims in all her cases pursuant to 42 U.S.C. § 1983: violations of her due process, equal protection,  
5 and free speech rights, obstruction of justice, defamation, public corruption, and conspiracy.

6 Ms. Albanese has been warned by the undersigned as well as Magistrate Judge Cam  
7 Ferenbach that duplicative lawsuits with virtually identical causes of action are subject to dismissal  
8 under 28 U.S.C § 1915. *See Albanese v. Fed. Bureau of Investigations*, 2:17-cv-01599-JAD-VCF,  
9 June 19, 2017 Report & Recommendation (ECF No. 3); *Albanese v. Las Vegas Metro Police*  
10 *Dep't*, 2:17-cv-00577-GMN-PAL, June 30, 2017 Report & Recommendation (ECF No. 68).  
11 Additionally, Judge Ferenbach has recommended that she be declared a vexatious litigant and be  
12 prohibited from filing any complaint, petition, or other document without first obtaining leave  
13 from the Chief Judge. His report and recommendation is currently pending before United States  
14 District Court Judge Jennifer A. Dorsey.

15 Having reviewed her complaint in this case, the court finds that her claims are frivolous  
16 and duplicative and will recommend denial of her IFP application and dismissal of the complaint.

## 17 **II. SCREENING THE COMPLAINT**

### 18 **A. Legal Standard**

19 Pursuant to § 1915(e), federal courts must screen all IFP complaints prior to a responsive  
20 pleading. *Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000) (en banc) (§ 1915(e) applies to “all  
21 in forma pauperis complaints”). Allegations in a *pro se* complaint are held to less stringent  
22 standards than formal pleading drafted by lawyers. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007);  
23 *Hebbe v. Pliler*, 627 F.3d 338, 342 n.7 (9th Cir. 2010). However, *pro se* litigants “should not be  
24 treated more favorably than parties with attorneys of record,” *Jacobsen v. Filler*, 790 F.2d 1362,  
25 1364 (9th Cir. 1986); rather, they must follow the same rules of procedure that govern other  
26 litigants. *Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir. 1995).

27 Federal courts are required to dismiss an IFP action if the complaint fails to state a claim  
28 upon which relief may be granted, is legally “frivolous or malicious,” or seeks monetary relief

1 from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). A complaint may be  
2 characterized as malicious “when it is ‘filed with the intention or desire to harm another.’” *Knapp*  
3 *v. Hogan*, 738 F.3d 1106, 1109 (9th Cir. 2013) (quoting *Andrews v. King*, 398 F.3d 1113, 1121  
4 (9th Cir. 2005)). Allegations are frivolous when they are “clearly baseless” or lack an arguable  
5 basis in law and fact. *Denton*, 504 U.S. at 32; *see also Neitzke v. Williams*, 490 U.S. 319, 325  
6 (1989). Frivolous claims include those based on legal conclusions that are untenable (*e.g.*, claims  
7 against defendants who are immune from suit or claims of infringement of a legal interest that  
8 clearly does not exist), as well as claims based on fanciful factual allegations (*e.g.*, fantastic or  
9 delusional scenarios). *Neitzke*, 490 U.S. at 327–28; *McKeever v. Block*, 932 F.2d 795, 798 (9th  
10 Cir. 1991); *Andrews*, 398 F.3d at 1121. In determining whether a complaint is frivolous and  
11 therefore warrants complete or partial dismissal, a court is not bound “to accept without question  
12 the truth of the plaintiff’s allegations.” *Denton*, 504 U.S. at 32. A complaint may be dismissed as  
13 frivolous if it “merely repeats pending or previously litigated claims.” *Cato*, 70 F.3d at 1105 n.2  
14 (citation omitted); *see also Aziz v. Burrows*, 976 F.2d 1158, 1158 (8th Cir. 1992) (“district courts  
15 may dismiss a duplicative complaint raising issues directly related to issues in another pending  
16 action brought by the same party”); *Adams v. Cal. Dep’t of Health Servs.*, 487 F.3d 684, 688 (9th  
17 Cir. 2007) (“Plaintiffs generally have no right to maintain two separate actions involving the same  
18 subject matter at the same time in the same court and against the same defendant.”), *overruled in*  
19 *part on other grounds by Taylor v. Sturgell*, 553 U.S. 880 (2008); *McWilliams v. State of Colorado*,  
20 121 F.3d 573, 574 (11th Cir. 1997) (holding that repetitious action may be dismissed as frivolous  
21 or malicious).

#### 22 **B. Ms. Albanese’s Duplicative Factual Allegations and Claims for Relief**

23 The court finds that the complaint in this case is frivolous because it merely repeats claims  
24 pending in other cases. Here, Albanese is suing LVMPD under 42 U.S.C. § 1983 for, among other  
25 things, violating her equal protection right and obstructing justice because an operator refused to  
26 dispatch an officer to investigate individuals who were stalking and spying on her:

27 [W]hen she asked me why I was whispering and I told her because my neighbors  
28 are spying/observing me.... Operators Collins 14128 was obstructing justice  
because she did not understand that I have to whisper when I call 311 and report

1 laundry room vagrants. So she refused to allow officers to investigate until they  
2 talked to me about my mental state.

3 Compl. (ECF No. 1-1).

4 In *Albanese v. Las Vegas Metropolitan Police Department*, 2:17-cv-00577-GMN-PAL, she  
5 alleged that LVMPD and its employees violated her equal protection and due process rights and  
6 obstructed justice by failing to respond to her call for help and refusing to take her voluntary  
7 statement that a neighbor was stalking her. *Id.*, Am. Compl. (ECF No. 15). Albanese alleged she  
8 called LVMPD to report that her neighbor was stalking her. A police sergeant told Ms. Albanese  
9 she was not stalked and he would not respond or allow other LVMPD officers to respond. She  
10 further alleged that an LVMPD employee refused to allow Ms. Albanese to document a crime of  
11 stalking making a voluntary statement. The court expressly found that these allegations failed to  
12 state actionable claims. *Id.*, June 30, 2017 Report & Recommendation (ECF No. 68).

13 In *Albanese v. Las Vegas Metropolitan Police Department*, 2:17-cv-01544-RFB-PAL, she  
14 alleges that LVMPD violated her equal protection right and obstructed justice because the police  
15 knew she was being stalked but would not take action:

16 Turns out not only was the stalker stalking me but he was trespassing [*sic*] as well  
17 and Officer Folger told me he would not tell me he was trespassing [*sic*].... The  
18 officer told me I was not being stalked. I believe the Las Vegas Police knew I was  
19 to be stalked by the homeless male and the police won't acknowledge that fact.

20 *Id.*, Compl. (ECF No. 1-1).

21 In *Albanese v. Las Vegas Metropolitan Police Department*, 2:17-cv-01613-APG-PAL, she  
22 alleges that LVMPD is

23 Allowing my civil rights to be violated by allowing obstruction to help people stalk  
24 me. To deny me equal protection by not allowing law enforcement to arrest people  
25 stalking me on a daily basis when I exit my house. To obstruct by not arresting  
26 people who are informing on me to people who stalk me.”

27 *Id.*, Compl. (ECF No. 1-1).

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1 In *Albanese v. Federal Bureau Of Investigation*, 2:17-cv-01614-JAD-PAL, Albanese sued  
2 the FBI for violation of her civil rights under § 1983 by denying her equal protection, and  
3 obstruction of justice. *Id.*, Compl. (ECF No. 1-1). The complaint alleges the following:

4 Allowing people to stalk me on a daily basis in violation of my equal protection.  
5 Allowing people to inform on me to people who are funding and supporting  
6 someone who stalks me on a daily basis allowing obstruction of the law to aid in  
7 stalking to continue.

7 *Id.*

8 In *Albanese v. Federal Bureau of Investigations*, 2:17-cv-01635-JAD-CWH, Albanese  
9 sued the FBI for violation of her civil rights under § 1983 for denying her due process and equal  
10 protection, and obstruction of justice. *Id.*, Compl. (ECF No. 1-1). Her complaint alleges:

11 The F.B.I. refuse to help me when they know I'm being followed by the same man  
12 who is being supported and funded by people who want me to move. The F.B.I.  
13 refuse to help me when I am being stalked and they know by whom. The F.B.I.  
14 refuses to pull the plug on 1107 E. Desert Inn Apts 3 and 9 observation of me in  
15 my room. The F.B.I. know I'm being stalked and they won't help me. This is  
16 obstruction of justice, denying me due process and equal protection.

15 *Id.*

16 In *Albanese v. Las Vegas Metropolitan Police Department*, 2:17-cv-01795-JAD-GWF,  
17 Albanese sued the police under § 1983 for violating her equal protection rights and obstructing  
18 justice. The complaint alleges:

19 Same stalker stalks me along my rout everyday. Threats to arreast (arrest) me from  
20 311/911 for reporting criminal stalking are made to me. Moffit #7897 said GPS is  
21 being used to arrest me by tracking my movements.... When I wait for the p police  
22 they don't show up, thankfully. Again & again same male stalks me. He's being  
23 funded and supported by people who want me to move. The police won't arrest  
24 him. Instead, the police want to arrest me. Same man keeps stalking me and the  
25 police want to arrest me not him.

23 *Id.*

24 In *Albanese v. Las Vegas Metropolitan Police Department*, 2:17-cv-01832-KJD-PAL, she  
25 alleges that LVMPD sergeants have conspired to violate her equal protection rights by allowing  
26 people to stalk and harass her:

27 I would like to start a lawsuit against the Las Vegas Police Department and Sgt.  
28 Johnson #2943. He's doing the dirty work for people in the department who have a

1 low opinion of me and of the justice system, that they're using Sgt. Johnson to try  
2 to upset me so I keep filing lawsuits.

3 *Id.*, Compl. (ECF No. 1-1). The LVMPD sergeant canceled another one of her calls and told her  
4 she is not credible or is lying about what she claims the neighbors are doing to her. The neighbors  
5 purportedly stalk and harass her because the police will not respond.

6 In *Albanese v. Las Vegas Metropolitan Police Department*, 2:17-cv-01904-JCM-PAL, she  
7 alleges violations of her equal protection and due process rights, public corruption, obstruction of  
8 justice, and a police conspiracy because the police are allowing a man to stalk her:

9 So I'd like to sue the LVMPD for not stopping stalking from taking place when  
10 they know it's happening to me.... That repeat stalker knows I'm going to call the  
11 cops so he keeps stalking me. The police allow him to stalk me. The police defend  
12 criminal behavior and say they are going to talk to people harassing me and so they  
13 forget and leave in their vehicles. So I keep returning to the Federal Building. *So  
14 it's like a vicious circle. I keep being stalked (with police foreknowledge). I call the  
15 cops. The police keep defending Apts. 3 and 9 who harass me. I keep suing.*

16 *Id.*, Compl. (ECF No. 1-1) (emphasis added).

17 Here, the court finds that Albanese's complaint is frivolous because it merely repeats  
18 pending or previously litigated claims. These actions follow a distinct pattern, which Albanese  
19 herself acknowledges. *Id.* Ms. Albanese believes that various persons stalk or spy on her in her  
20 home and when she travels around Las Vegas. However, she alleges that federal and local law  
21 enforcement officers refuse to help her or investigate and arrest her stalkers. She asserts similar  
22 legal claims in most of her cases pursuant to 42 U.S.C. § 1983: violations of her due process, equal  
23 protection, and free speech rights, obstruction of justice, defamation, public corruption, and  
24 conspiracy. Because this action is duplicative and frivolous dismissal is appropriate.

25 Based on the foregoing,

26 **IT IS RECOMMENDED** that:

- 27 1. Plaintiff Grace Albanese's Application to Proceed *In Forma Pauperis* (ECF No. 1) be  
28 **DENIED**.
2. The Complaint (ECF No. 1-1) be **DISMISSED**.

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