

1 **II. Complaint**

2 Upon granting a request to proceed *in forma pauperis*, a court must additionally screen a
3 complaint pursuant to 28 U.S.C. § 1915(e). Specifically, federal courts are given the authority to
4 dismiss a case if the action is legally “frivolous or malicious,” fails to state a claim upon which
5 relief may be granted, or seeks monetary relief from a defendant/third party plaintiff who is
6 immune from such relief. 28 U.S.C. § 1915(e)(2). A complaint, or portion thereof, should be
7 dismissed for failure to state a claim upon which relief may be granted “if it appears beyond a
8 doubt that the plaintiff can prove no set of facts in support of his claims that would entitle him to
9 relief.” *Buckey v. Los Angeles*, 968 F.2d 791, 794 (9th Cir. 1992). When a court dismisses a
10 complaint under § 1915(e), the plaintiff should be given leave to amend the complaint with
11 directions as to curing its deficiencies, unless it is clear from the face of the complaint that the
12 deficiencies could not be cured by amendment. *See Cato v. United States*, 70 F.3d 1103, 1106 (9th
13 Cir. 1995).

14 To satisfy the screening requirements with respect to social security appeals, a plaintiff must
15 set forth the following: (1) the plaintiff must establish that she has exhausted her administrative
16 remedies pursuant to 42 U.S.C. § 405(g), and that the civil action was commenced within sixty
17 days after notice of a final decision; (2) the complaint must indicate the judicial district in which
18 the plaintiff resides; (3) the complaint must state the nature of the plaintiff's disability and when the
19 plaintiff claims she became disabled; and (4) the complaint must contain a plain, short, and concise
20 statement identifying the nature of the plaintiff's disagreement with the determination made by the
21 Social Security Administration and show that the plaintiff is entitled to relief. *Montoya v. Colvin*,
22 2016 WL 890922, at *2 (D. Nev. Mar. 8, 2016) (citing *Soete v. Colvin*, 2013 WL 5947231, *2 (D.
23 Nev. Nov. 4, 2013); *Pitcher v. Astrue*, 2012 WL 3780354, *1 (D. Nev. Aug. 30, 2012)).

24 Plaintiff's complaint is insufficient. Plaintiff does not allege that she exhausted her
25 administrative remedies, timely commenced this case, or that she resides in this judicial district.
26 Although Plaintiff discusses some of her medical conditions, she does not state the nature of her
27 disability clearly or when it commenced. Further, Plaintiff does not provide any allegations as to
28 why the Social Security Administration's determination denying her benefits is wrong. The

1 plaintiff must provide a statement identifying the basis of the plaintiff's disagreement with the
2 Social Security Administration's determination and must make a showing that the plaintiff is
3 entitled to relief. Accordingly,

4 **IT IS HEREBY ORDERED** that Plaintiff's Application to Proceed *In Forma Pauperis*
5 (ECF No. 1) is **granted**. Plaintiff shall not be required to pre-pay the full filing fee of four hundred
6 dollars (\$400.00).

7 **IT IS FURTHER ORDERED** that the Clerk of the Court shall file the Complaint (ECF
8 No. 1-1).

9 **IT IS FURTHER ORDERED** that the Complaint (ECF No. 1-1) is **DISMISSED** with
10 leave to amend. Plaintiff shall have until **December 29, 2017** to file an amended complaint
11 correcting the noted deficiencies.

12 DATED this 21st day of November, 2017.

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15 GEORGE FOLEY, JR.
16 United States Magistrate Judge
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