

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

DARYOUSH JAVAHERI,  
Plaintiff,  
v.  
UNITED STATES OF AMERICA,  
Defendant.

Case No. 2:24-cv-00860-GMN-EJY

**ORDER**

Pending before the Court is Plaintiff’s application to proceed *in forma pauperis* (“IFP”), Complaint, and Motion for Appointment of Counsel (ECF Nos. 1, 1-1, 1-2).

**I. Application to Proceed *in forma pauperis***

Plaintiff submitted the affidavit and documentation required by 28 U.S.C. § 1915(a) showing an inability to prepay fees and costs or give security for them. ECF No. 1. Accordingly, the request to proceed *in forma pauperis* will be granted pursuant to 28 U.S.C. § 1915(a).

**II. Screening the Complaint**

Upon granting a request to proceed *in forma pauperis*, a court must screen the complaint under 28 U.S.C. § 1915(e)(2). In its review, the court must identify any cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a claim upon which relief may be granted or seek monetary relief from a defendant who is immune from such relief. *See* 28 U.S.C. § 1915A(b)(1), (2). However, pro se pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990).

A federal court must dismiss a plaintiff’s claim if the action “is frivolous or malicious[,] fails to state a claim on which relief may be granted[,] or seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2). The standard for dismissing a complaint for failure to state a claim is established by Federal Rule of Civil Procedure 12(b)(6). When a court dismisses a complaint under § 1915(e), the plaintiff should be given leave to amend the complaint with directions to cure its deficiencies unless it is clear from the face of the complaint that the

1 deficiencies cannot be cured by amendment. *Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir.  
2 1995).

3 **III. Analysis of Plaintiff's Complaint**

4 The Court finds Plaintiff's Complaint is almost indecipherable, making it difficult to  
5 determine the true nature of his claims. However, to the extent that the content of Plaintiff's  
6 Complaint is understandable it is nonetheless deficient for the following reasons.

7 A. Immunity.

8 Plaintiff asserts claims against the United States of America, the United States Attorney  
9 General, and the United States Department of Justice. ECF No. 1-1 at 2-5. All three of these parties  
10 are immune from suit, and therefore the claims against them cannot proceed. *W. Shoshone Nat.*  
11 *Council v. United States*, 408 F. Supp. 2d 1040, 1047 (D. Nev. 2005) (United States is immune);  
12 *Cox v. Ashcroft*, 603 F. Supp. 2d 1261, 1273 (E.D. Cal. 2009) (United States Attorney General is  
13 immune); *Sosbee v. U.S. Dep't of Just.*, 14 Fed.Appx. 926, 927 (9th Cir. 2001) (United States  
14 Department of Justice is immune).

15 B. Plaintiff fails to tie any events in the Complaint to Defendants.

16 In order to state a claim against the Defendants, Plaintiff must do more than allege a wrong  
17 and seek relief. *Sherrell v. Bank of Am., N.A.*, Case No. CV F 11-1785-LJO (JLT), 2011 WL  
18 6749765, at \*4 (E.D. Cal. Dec. 22, 2011) (“[A] pleading may not simply allege a wrong has been  
19 committed and demand relief.”). Here, Plaintiff's allegations fails to identify a cause of action such  
20 that Defendants could discern what claim or claims Plaintiff seeks to assert. *Hebbe v. Pliler*, 627  
21 F.3d 338, 341-42 (9th Cir. 2010) (although pro se pleadings are construed liberally, a plaintiff must  
22 present factual allegations sufficient to state a plausible claim for relief). The pleading standard  
23 established by Federal Rule of Civil Procedure 8 “does not require detailed factual allegations, but  
24 it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Iqbal*, 556  
25 U.S. 678 (internal quotation omitted). Plaintiff's complaint fails to put Defendants on notice of the  
26 claims against them as required by Rule 8. *Benitez v. Schumacher*, Case No. 2:20-CV-00396-FMO-  
27 SHK, 2020 WL 6526352, at \*12 (C.D. Cal. May 4, 2020).

1 C. Jurisdiction.

2 Even if the Defendants were not immune, and even if Plaintiff stated a claim, Plaintiff fails  
3 to establish personal jurisdiction over Defendants. “The party asserting federal jurisdiction bears  
4 the burden of proving that the case is properly in federal court.” *McCauley v. Ford Motor Co.*, 264  
5 F.3d 952, 957 (9th Cir. 2001) (citing *McNutt v. General Motors Acceptance Corp.*, 298 U.S. 178,  
6 189 (1936)).

7 Federal courts may exercise either general or specific personal jurisdiction over a defendant.  
8 *AMC Fabrication, Inc. v. KRD Trucking West, Inc.*, Case No. 2:12-cv-00146-LDG-CWH, 2012 WL  
9 4846152, at \*3 (D. Nev. Oct. 10, 2012) (internal citations omitted). To establish general jurisdiction,  
10 a defendant must have sufficient contacts with the forum state to constitute the “kind of continuous  
11 and systematic general business contacts that approximate physical presence.” *AMC Fabrication*,  
12 2012 WL 4846152, at \*3 (internal citation omitted). Plaintiff alleges no facts suggesting Defendants  
13 engage in continuous and systemic general business contact with the State of Nevada sufficient to  
14 warrant the exercise of general jurisdiction.

15 A district court may exercise specific jurisdiction over a defendant if the causes of action  
16 “arise[] out of or relate to” the defendant’s in-state activity. *Burger King Corp. v. Rudzewicz*, 471  
17 U.S. 462, 472-73 (1985). Determining whether specific jurisdiction exists over an out-of-state  
18 defendant involves two inquiries: (1) whether a forum state’s long-arm statute permits service of  
19 process, and (2) whether the assertion of personal jurisdiction would violate due process. *Action*  
20 *Embroidery Corp. v. Atl. Embroidery, Inc.*, 368 F.3d 1174, 1177, 1180 (9th Cir. 2004). Because  
21 Nevada’s long-arm statute, NRS § 14.065, reaches the “outer limits of federal constitutional due  
22 process,” the Court need only analyze whether exercising specific jurisdiction over Defendants  
23 comports with due process. *Certain-Teed Prods. Corp. v. Second Judicial Dist. Ct.*, 479 P.2d 781,  
24 784 (Nev. 1971).

25 Plaintiff claims that his house in Los Angeles, California was foreclosed on after he failed to  
26 pay a “predatory loan,” and the foreclosing bank illegally inflated its attorney’s fees. ECF No. 1-1  
27 at 4-5. Plaintiff seeks damages from Defendants based on these allegations. *Id.* Plaintiff asserts no  
28

1 facts demonstrating any events occurred in Nevada let alone that support Defendants have any  
2 contacts with Nevada pertaining to the events alleged in the Complaint.

3 **IV. Order**

4 Accordingly, IT IS HEREBY ORDERED that Plaintiff's application to proceed *in forma*  
5 *pauperis* (ECF No. 1) is GRANTED.

6 IT IS FURTHER ORDERED that Plaintiff's Complaint (ECF No. 1-1) is DISMISSED  
7 without prejudice, but with leave to amend **once**.

8 IT IS FURTHER ORDERED that if Plaintiff chooses to amend his Complaint to clearly state  
9 one or more claims identifying facts supporting causes of action against specific defendants, where  
10 events allow this case to proceed in the U.S. District Court for the District of Nevada. Jurisdiction  
11 must be established not merely as to subject matter, but with respect to personal jurisdiction over the  
12 Defendants as well. Plaintiff is advised not to repeat claims asserted against immune Defendants as  
13 discussed above.

14 IT IS FURTHER ORDERED that if Plaintiff chooses to file an amended complaint, he must  
15 do so no later than **June 10, 2024**. Plaintiff amended complaint must be complete in and of itself.  
16 It must contain all the facts on which he bases his claims and must identify the constitutional wrongs  
17 engaged in by the Defendants identified. The Court cannot refer to Plaintiff's original Complaint  
18 when it screens Plaintiff's amended complaint.

19 IT IS FURTHER ORDERED that Plaintiff's failure to comply with the terms of this Order  
20 may result in a recommendation that this action be dismissed without prejudice.

21 IT IS FURTHER ORDERED that the Motion for Appointment of Counsel (ECF No. 1-2) is  
22 DENIED without prejudice as premature.

23 Dated this 9th day of May, 2024.

24  
25   
26 ELAYNA J. YOUCHAK  
27 UNITED STATES MAGISTRATE JUDGE  
28