HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHARMANE SMITH, Plaintiff, v. MICROSOFT CORPORATION, Defendant.	Case No. C16-1771-RAJ ORDER

This matter comes before the Court *sua sponte*. For the reasons that follow, the Court **DISMISSES** *pro se* Plaintiff Charmane Smith's complaint **without leave to amend**.

On November 14, 2016, Smith filed this action alleging "serious security flaws" in computer software designed by Defendant Microsoft Corporation. Dkt. # 5. In doing so, Smith filed an application to proceed *in forma pauperis*. Dkt. # 1. Judge Theiler granted Smith's application, but recommended that the Court review Smith's action under 28 U.S.C. § 1915(e)(2)(B).

On November 21, 2016, the Court dismissed Smith's complaint. The Court did so pursuant to 28 U.S.C. § 1915(e)(2)(B), which requires the Court to dismiss the complaint of an *in forma pauperis* plaintiff if that complaint fails to state a claim. In dismissing Smith's complaint, the Court granted leave to amend. Smith has since filed an amended complaint. Dkt. # 10.

The Court's authority to grant *in forma pauperis* status derives from 28 U.S.C.

§ 1915. The Court is required to dismiss an *in forma pauperis* plaintiff's case if the Court determines that "the action . . . (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B). A complaint is frivolous if it lacks a basis in law or fact. *Andrews v. King*, 398 F.3d 1113, 1121 (9th Cir. 2005). A complaint fails to state a claim if it does not "state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 568 (2007).

In Smith's amended complaint, Smith alleges unsafe design defects in Microsoft's products that occurred as a result of "criminal exploitation of security flaws in Microsoft Operating System Products by Black Hat Hackers." Dkt. # 10 at 2. Among other things, these design defects have allegedly enabled criminals to disable vehicles, buildings, telephones, ambulances, and police departments and to remotely set fires and explosions. *Id.* at 3. Smith requests damages between $96 million and $3.2 billion. *Id.* at 9. These allegations lack any conceivable basis in fact and fail to state a plausible claim. Accordingly, Smith's complaint is frivolous and fails to state a valid claim for relief.

For the foregoing reasons, the Court **DISMISSES without leave to amend** Smith's amended complaint. Dkt. # 10.

DATED this 28th day of April, 2017.

The Honorable Richard A. Jones
United States District Judge