

HONORABLE RONALD B. LEIGHTON

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RICHARD ROY SCOTT,

Plaintiff,

v.

MARK STRONG, et al.,

Defendants.

CASE NO. C16-5031 RBL-KLS

ORDER ON APPEAL FROM
MAGISTRATE JUDGE’S ORDER

[DKT.#19]

THIS MATTER is before the Court on Plaintiff Scott’s Appeal [Dkt.# 19] from Magistrate Judge Strombom’s Order requiring him to Show Cause or (for a third time) Amend his Complaint [Dkt. #15]¹ Scott does not directly address the portion of Judge Strombom’s Order that directs him to clarify and bolster his complaint to state a claim under §1983. He claims instead that Judge Strombom is biased against him and should be disqualified from the case. He argues that her requirement that an amendment include a “short and plain statement” of his claim

¹ The Order granted Scott’s Motion to Amend a second time, and in consistent with the order the second amended complaint has been filed [Dkt. #16]. The Order declined to serve the complaint due to enumerated deficiencies, and instead ordered him to show cause why it should not be dismissed, or to amend the complaint again.

1 is a requirement that applies to Prison Litigation Reform Act claims, and emphasizes that he is
2 not a prisoner.

3 Scott is mistaken about the source of the “short and plain statement” requirement—it
4 comes from Fed. R. Civ. P. 8(a)(1), which applies to *all* federal complaints, including those in
5 this case. The remainder of Judge Strombom’s Order accurately and fairly sets forth what a
6 viable complaint must allege and contain, even for a *pro se* litigant.

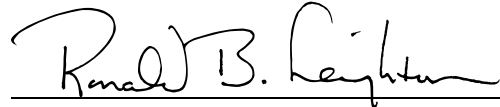
7 A plaintiff’s complaint must allege facts to state a claim for relief that is plausible on its
8 face. *See Aschcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009). A claim has “facial plausibility”
9 when the party seeking relief “pleads factual content that allows the court to draw the reasonable
10 inference that the defendant is liable for the misconduct alleged.” *Id.* Although the Court must
11 accept as true the Complaint’s well-pled facts, conclusory allegations of law and unwarranted
12 inferences will not defeat a Rule 12(c) motion. *Vazquez v. L. A. County*, 487 F.3d 1246, 1249
13 (9th Cir. 2007); *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir. 2001). “[A]
14 plaintiff’s obligation to provide the ‘grounds’ of his ‘entitle[ment] to relief’ requires more than
15 labels and conclusions, and a formulaic recitation of the elements of a cause of action will not
16 do. Factual allegations must be enough to raise a right to relief above the speculative level.”
17 *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (citations and footnotes omitted). This
18 requires a plaintiff to plead “more than an unadorned, the-defendant-unlawfully-harmed-me-
19 accusation.” *Iqbal*, 129 S. Ct. at 1949 (citing *Twombly*).

20 Scott’s appeal of the Show Cause or Amend Order is DENIED, but the due date for his
21 response to that order is EXTENDED to April 8.

1 Scott's Motion to Recuse Judge Strombom is properly addressed in the first instance to
2 Judge Strombom herself. LCR3(e). If she declines to recuse voluntarily, she will refer the matter
3 to the Chief Judge.

4 IT IS SO ORDERED.

5 Dated this 25th day of March, 2016.

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8 Ronald B. Leighton
9 United States District Judge
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