

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

James R. Hunter v. Theodora Paul, et al.

No. CV-25-03118-PHX-JAT (CDB) · No. 2:25-cv-03118 · Decided December 11, 2025

SUMMARY

The United States District Court for the District of Arizona dismisses James R. Hunter’s pro se prisoner civil-rights complaint against medical providers, defense counsel, insurers, and related entities. The court grants in forma pauperis status but finds that the claims fail to state a claim, are barred in part by absolute immunity, and are legally frivolous or malicious. The dismissal is without leave to amend and may count as a strike under 28 U.S.C. § 1915(g).

CASE DETAILS

COURT	United States District Court for the District of Arizona
WRITING FOR THE COURT	James A. Teilborg
JURISDICTION	United States District Court for the District of Arizona
DECIDED	December 11, 2025
DOCKET	2:25-cv-03118
DISPOSITION	dismissed
PROCEDURAL POSTURE	The pro se prisoner plaintiff filed a 42 U.S.C. § 1983 complaint and an application to proceed in forma pauperis. The district court granted in forma pauperis status but screened and dismissed the complaint under 28 U.S.C. § 1915A(b)(1) for failure to state a claim, without leave to amend.
STANDARD OF REVIEW	The complaint was reviewed under the screening standard of 28 U.S.C. § 1915A. The court assessed whether the pleading was legally frivolous or malicious, failed to state a claim, or sought relief from immune defendants, applying the Rule 8 plausibility principles of Ashcroft v. Iqbal and Bell Atlantic Corp. v. Twombly and construing the pro se complaint liberally.
PRECEDENTIAL VALUE	unpublished and nonprecedential district court order
PARTIES	James R. Hunter v. Theodora Paul, NaphCare Health Incorporated, Centurion of Arizona, Centene Corporation, Tom Dolan, Young, D. Mendoza, Oyuki Coronado, Erica Johnson, Pfingston, R. Branum, Columbia Casualty Company, Scottsdale Insurance Company, Zurich

TOPICS

prisoners rights section 1983 civil rights pleadings civil procedure

PRACTICE AREAS

prisoner civil rights constitutional law federal civil procedure in forma pauperis litigation

QUESTIONS PRESENTED

1. Whether the complaint stated a plausible First Amendment access-to-courts claim based on the alleged withholding and use of medical records.
2. Whether the complaint stated a plausible First Amendment retaliation claim.
3. Whether defendants involved in representing parties or participating in the related litigation were entitled to absolute immunity from damages liability.
4. Whether the private medical entities could be liable under 42 U.S.C. § 1983 absent allegations of an actionable policy or custom.
5. Whether the complaint should be dismissed without leave to amend as futile.

HOLDINGS

1. Government attorneys performing acts intimately associated with the judicial phase of litigation, and witnesses for testimony in judicial proceedings, are absolutely immune from damages liability. The court applied that principle to dismiss the claims against Paul, Coronado, Pfingston, Barnes, Chappel, and Broening, Oberg, Woods & Wilson.
2. A private entity performing a traditional public function such as providing medical care to prisoners may be liable under § 1983 only when the plaintiff alleges that a constitutional violation resulted from a policy, decision, or custom promulgated or endorsed by the entity.
3. A prisoner complaint must be dismissed at screening when it is legally frivolous or malicious, fails to state a claim, or seeks monetary relief from an immune defendant.
4. Leave to amend may be denied when the defects in a pro se complaint cannot be cured by additional allegations consistent with the challenged pleading; here, amendment would be futile.

KEY QUOTATIONS

“A pleading must contain a “short and plain statement of the claim showing that the pleader is entitled to relief.”” (at 2)

“The proper forum for challenges to these allegedly improper actions is in the adversary proceedings, not in a separate suit for damages.” (at 4)

“The Complaint (Doc. 1) is dismissed for failure to state a claim pursuant to 28 U.S.C. § 1915A(b)(1), and the Clerk of Court must enter judgment accordingly.” (at 9)

FACTUAL BACKGROUND

Plaintiff, a prisoner at the Arizona State Prison Complex-Yuma, sued medical-care providers, their employees, defense counsel, a law firm, and insurers based primarily on events in another pending civil rights case. He alleged that defendants withheld or improperly used his medical records and retaliated against him after he pursued Eighth Amendment claims. The court found that the challenged conduct involved litigation representation or testimony, that several defendants had no involvement in the alleged conduct, and that the corporate defendants were named solely because they had been defendants in the other action.

PROCEDURAL HISTORY

Hunter brought claims concerning conduct allegedly occurring in a separate civil rights action, *Hunter v. Paul*, No. CV-24-02068-PHX-JAT (CDB). The court concluded that several defendants were absolutely immune for litigation-related conduct, other defendants had no involvement in the alleged injury, and the private entities were not connected to any actionable policy or custom. The court dismissed the complaint without leave to amend and directed that the dismissal may count as a strike under 28 U.S.C. § 1915(g).

DISPOSITION

dismissed

CASES CITED

- *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79, 681 (2009)
- *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)
- *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010)
- *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam)
- *Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (en banc)
- *Fry v. Melaragno*, 939 F.2d 832, 836-38 (9th Cir. 1991)
- *Paine v. City of Lompoc*, 265 F.3d 975, 980 (9th Cir. 2001)
- *Tsao v. Desert Palace, Inc.*, 698 F.3d 1128, 1138-39 (9th Cir. 2012)
- *Burke v. County of Alameda*, 586 F.3d 725, 734 (9th Cir. 2009)
- *Monell v. Department of Social Services of City of New York*, 436 U.S. 658, 690-94 (1978)
- *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 167-68 (1970)
- *Trevino v. Gates*, 99 F.3d 911, 918 (9th Cir. 1996)
- *Nordstrom v. Ryan*, 762 F.3d 903, 920 n.1 (9th Cir. 2014)
- *Andrews v. King*, 398 F.3d 1113, 1121 (9th Cir. 2005)
- *Knapp v. Hogan*, 738 F.3d 1106, 1109 (9th Cir. 2013)
- *United States v. Corinthian Colleges*, 655 F.3d 984, 995 (9th Cir. 2011)

- Johnson v. Buckley, 356 F.3d 1067, 1077 (9th Cir. 2004)
- Akhtar v. Mesa, 698 F.3d 1202, 1212 (9th Cir. 2012)
- Reddy v. Litton Industries, 912 F.2d 291, 296-97 (9th Cir. 1990)
- Webb v. Smart Document Solutions, LLC, 499 F.3d 1079, 1081 (9th Cir. 2007)

OPINION

Paul

PER CURIAM.

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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

8 9 James R. Hunter, No. CV-25-03118-PHX-JAT (CDB) 10 Plaintiff, 11 v. ORDER 12 Theodora Paul, et al., 13 Defendants. 14 15 Plaintiff James R. Hunter, who is confined in the Arizona State Prison Complex- 16 Yuma, has filed a pro se civil rights Complaint pursuant to 42 U.S.C. § 1983 (Doc. 1) and 17 an Application to Proceed In Forma Pauperis (Doc. 9). The Court will dismiss this action. 18 I. Application to Proceed In Forma Pauperis and Filing Fee 19 The Court will grant Plaintiff's Application to Proceed In Forma Pauperis. 20 U.S.C. § 1915(a). Plaintiff must pay the statutory filing fee of \$350.00. 21 U.S.C. § 1915(b)(1). The Court will not assess an initial partial filing fee. Id. The statutory filing 22 fee will be collected monthly in payments of 20% of the previous month's income credited 23 to Plaintiff's trust account each time the amount in the account exceeds \$10.00. 24 U.S.C. § 1915(b)(2). The Court will enter a separate Order requiring the appropriate government 25 agency to collect and forward the fees according to the statutory formula. 26 II. Statutory Screening of Prisoner Complaints 27 The Court is required to screen complaints brought by prisoners seeking relief 28 against a governmental entity or an officer or an employee of a governmental entity. 29 1 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff 2 has raised claims that are legally frivolous or malicious, fail to state a claim upon which 3 relief may be granted, or seek monetary relief from a defendant who is immune from such 4 relief. 5 U.S.C. § 1915A(b)(1)–(2). 6 A pleading must contain a "short and plain statement of the claim showing that the 6 pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does 7 not demand detailed factual allegations, "it demands more than an unadorned, the- 8 defendant-unlawfully-harmed-me accusation." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 9 (2009). "Threadbare recitals of the elements of a cause of action, supported by mere 10 conclusory statements, do not suffice." Id. 11 "[A] complaint must contain sufficient factual matter, accepted as true, to 'state a 12 claim to relief that is plausible on its face.'" Id. (quoting *Bell Atlantic Corp. v. Twombly*, 13 550 U.S. 544, 570 (2007)). A claim is plausible "when the plaintiff pleads factual content 14 that allows the court to draw the reasonable inference that the defendant is liable for the 15 misconduct alleged." Id.

“Determining whether a complaint states a plausible claim for relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.” *Id.* at 679. Thus, although a plaintiff’s specific factual allegations may be consistent with a constitutional claim, a court must assess whether there are other “more likely explanations” for a defendant’s conduct. *Id.* at 681. But as the United States Court of Appeals for the Ninth Circuit has instructed, courts must “continue to construe pro se filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010). A “complaint [filed by a pro se prisoner] ‘must be held to less stringent standards than formal pleadings drafted by lawyers.’” *Id.* (quoting *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam)). If the Court determines that a pleading could be cured by the allegation of other facts, a pro se litigant is entitled to an opportunity to amend a complaint before dismissal of the action. See *Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (en banc). Plaintiff’s Complaint will be dismissed for failure to state a claim, without leave to amend because the defects cannot be corrected.

III. Complaint

In his three-count Complaint, Plaintiff sues NaphCare Health Incorporated (NaphCare); Centurion of Arizona (Centurion) and its parent company, Centene Corporation (Centene); Centurion Vice President Tom Dolan; Regional Director Young; Director of Nursing D. Mendoza; Dr. Theodora Paul; Oyuki Coronado; Clinical Coordinator Erica Johnson; Nurse Practitioner Pfingston; and Nurse R. Branum. Plaintiff also sues Columbia Casualty Company, Scottsdale Insurance Company, Zurich American Insurance, and Starr Indemnity Insurance Company. Finally, Plaintiff sues the law firm of Broening, Oberg, Woods & Wilson and attorneys Sarah Barnes and Katrina Chappel. Plaintiff brings claims regarding Defendants’ alleged conduct in another of Plaintiff’s pending civil rights cases in this Court, *Hunter v. Paul*, CV-24-02068-PHX-JAT (CDB). He seeks injunctive and relief.

A. Background

To lend context to Plaintiff’s allegations, the Court describes the ongoing litigation in *Hunter v. Paul*. Plaintiff originally filed the Complaint in state court and named NaphCare, Centurion, Centene, Dolan, Young, Mendoza, Paul, Coronado, Johnson, Pfingston, Branum, and various insurance companies as Defendants. Defendant Centurion removed the case to this Court. Subsequently, Plaintiff filed a Third Amended Complaint. (Doc. 8 in CV-24-02068.) The Court determined that Plaintiff stated an Eighth Amendment claim in the Third Amended Complaint against Defendants Coronado, Paul, and Pfingston and directed them to answer the claim. (*Id.*, Doc. 12.) The Court dismissed the remaining Defendants. (*Id.*) Sarah Barnes and Katrina Chappel of Broening, Oberg, Woods & Wilson entered a Notice of Appearance on behalf of Defendants Coronado, Paul, and Pfingston. On February 24, 2025, Plaintiff filed a Motion for Permanent Injunction, and on April 7, 2025, he filed an Emergency Motion for Injunction. (*Id.*, Docs. 23, 26.) In both Motions, Plaintiff asked the Court to issue an order enjoining defense counsel Sarah Barnes and her firm, Broening Oberg Woods & Wilson, from representing any litigant where the opposing party is a prisoner. Plaintiff alleged that Barnes had concealed evidence and created

false issues of material fact, which has led to prisoner deaths. In a June 3, 2025⁵ Order, the Court denied the Motions, finding no evidence of misconduct. (Id., Doc. 30.)⁶ On July 18, 2025, Defendants Coronado, Paul, and Pflingston filed a Motion for⁷ Summary Judgment. (Id., Doc. 37.) Plaintiff moved to strike Defendants’ Motion for⁸ Summary Judgment, arguing that Plaintiff sought his own medical records during⁹ discovery, but Defendants objected to their production and then relied on those same¹⁰ records in their summary judgment motion. (Id., Doc. 39.) In a September 8, 2025 Order,¹¹ the Court denied Plaintiff’s Motion to Strike and ordered Defendants to facilitate Plaintiff¹² obtaining his medical records and to file a notice of compliance. (Id., Doc. 52.) The next¹³ day, Plaintiff filed a Motion to Disqualify Defendants’ Attorneys, alleging that during¹⁴ telephone conversations in February and August 2025, defense counsel made inappropriate¹⁵ statements regarding a non-party inmate and threatened Plaintiff with vexatious litigant¹⁶ designation unless he withdrew certain filings. (Id., Doc. 53)¹⁷ On September 19, 2025, Defendants filed their Notice of Compliance. (Id., Doc. 18 53). Defendant Barnes filed a Response to Plaintiff’s Motion to Disqualify, stating that¹⁹ she advised Plaintiff that his filings appeared substantially similar to filings by the other²⁰ inmate, who had indicated that he would share documents with Plaintiff. (Id.) Barnes²¹ recounted that she told Plaintiff that the continued submission of meritless filings could²² result in Rule 11 sanctions and/or vexatious litigant designation. (Id.) In an October 3, 23 2025 Order, the Magistrate Judge denied Plaintiff’s Motion to Disqualify, concluding that²⁴ the timing of Plaintiff’s Motion to Disqualify—which he filed the day after the Court²⁵ denied his Motion to Strike—suggested that the Motion was not filed for a legitimate²⁶ concern, Plaintiff had not demonstrated the likelihood of cognizable harm, there was no²⁷ risk that the public would perceive defense counsel’s representation of Defendants as²⁸ improper, and Plaintiff could file a complaint with the State Bar for any allegedly unethical¹ conduct by Defendant Barnes. (Id., Doc. 60.)² Defendants’ Motion for Summary Judgment remains pending, and Plaintiff’s³ Response to the Motion is currently due on December 22, 2025. (Id., Doc. 62.)⁴ B. Allegations⁵ In Count One, Plaintiff asserts a First Amendment claim for denial of access to the⁶ courts. Plaintiff alleges that in *Hunter v. Paul*, he requested his medical records from⁷ Defendants Cornado, Paul, and Pflingston, through their attorney, Defendant Barnes, but⁸ Defendants refused to provide his medical records. Plaintiff asserts that Defendants then⁹ used his medical records to support their Motion for Summary Judgment. Plaintiff¹⁰ contends that Defendants have “frustrated and impeded” his ability to have the Court “fully¹¹ review” his claims, thereby denying him access to the courts. Plaintiff also claims that¹² Defendants Cornado, Paul, and Pflingston, through Defendant Barnes, violated the Health¹³ Insurance Portability and Accountability Act (HIPAA) when they used his medical records¹⁴ in support of their Motion for Summary Judgment, where neither Defendants nor their¹⁵ counsel obtained Plaintiff’s authorization for the release of his records.¹⁶ In Count Two, Plaintiff asserts a First Amendment retaliation claim. Plaintiff¹⁷ alleges that Defendants Cornado, Paul, and Pflingston, through Defendant Barnes, retaliated¹⁸ against him through the conduct alleged in

Count One because Plaintiff sought relief for 19 violations of his Eighth Amendment rights. 20 In Count Three, Plaintiff asserts another First Amendment retaliation claim. 21 Plaintiff alleges that Defendants Cornado, Paul, and Pfingston, through Defendant Barnes, 22 retaliated against Plaintiff by concealing evidence—that is, Plaintiff’s medical records— 23 as described in Count One. Plaintiff claims that “over the years,” Defendant Barnes has 24 “utilized this same practice of withholding vital evidence from almost all pro per prison 25 litigant[.]s” who have brought claims against Corizon, Centurion, and NaphCare. Plaintiff 26 contends that because Defendant Barnes has denied crucial evidence to pro se prisoner 27 28 1 HIPAA “provides no private right of action.” *Webb v. Smart Document Sols., LLC*, 499 F.3d 1079, 1081 (9th Cir. 2007). 1 plaintiffs, Defendant Barnes’s clients have prevailed in almost every case in which a 2 prisoner is pro se. Plaintiff claims that Defendants Centurion and NaphCare “condone and 3 are a party to this unethical practice.” 4

IV. Discussion 5

A. Absolute Immunity 6 If a government attorney is performing acts “intimately associated with the judicial 7 phase” of the litigation, that attorney is entitled to absolute immunity from damages 8 liability.” *Fry v. Melaragno*, 939 F.2d 832, 836-38 (9th Cir. 1991). “The proper forum for 9 challenges to these allegedly improper actions is in the adversary proceedings, not in a 10 separate suit for damages.” *Id.* Likewise, “[w]itnesses . . . are accorded absolute immunity 11 from liability for their testimony in judicial proceedings.” *Paine v. City of Lompoc*, 265 12 F.3d 975, 980 (9th Cir. 2001). Defendants Paul, Coronado, Pfingston, Barnes, Chappel, 13 and the law firm of Broening, Oberg, Woods & Wilson are absolutely immune from 14 liability for damages for their roles in *Hunter v. Paul*, and these Defendants will be 15 dismissed. 16

B. Defendants Dolan, Young, Mendoza, Johnson, and Branum 17 Plaintiff makes no specific allegations against Defendants Dolan, Young, Mendoza, 18 Johnson, and Branum and apparently has named them as Defendants here solely because 19 he named them as Defendants in *Hunter v. Paul*. Defendants Dolan, Young, Mendoza, 20 Johnson, and Branum were dismissed on screening and had no other involvement in *Hunter v. Paul*. Plaintiff cannot state any constitutional claim against them based on their 22 involvement in *Hunter v. Paul*, and Defendants Dolan, Young, Mendoza, Johnson, and 23 Branum will be dismissed. 24

C. NaphCare, Centurion, and Centene 25 To state a claim under § 1983 against a private entity performing a traditional public 26 function, such as providing medical care to prisoners, a plaintiff must allege facts to support 27 that his constitutional rights were violated as a result of a policy, decision, or custom 28 promulgated or endorsed by the private entity. See *Tsao v. Desert Palace, Inc.*, 698 F.3d 1 1128, 1138-39 (9th Cir. 2012). To state a claim against NaphCare, Centurion, and Centene, 2 Plaintiff must allege that (1) he was deprived of a constitutional right; (2) NaphCare, 3 Centurion, and Centene had a policy or custom; (3) the policy or custom amounted to a 4 deliberate indifference to Plaintiff’s constitutional right; and (4) the policy was the moving 5 force behind the constitutional violation. See *Burke v. County of Alameda*, 586 F.3d 725, 6 734 (9th Cir. 2009). In addition, if the policy or custom in question is an unwritten one, 7 Plaintiff must allege facts to support that it is so “persistent and widespread” that it 8 constitutes a “permanent and well settled”

practice. *Monell v. Dep't of Soc. Servs. of City of New York*, 436 U.S. 658, 690-94 (1978) (quoting *Adickes v. S.H. Kress & Co.*, 398 U.S. 10 144, 167-68 (1970)). "Liability for improper custom may not be predicated on isolated or 11 sporadic incidents; it must be founded upon practices of sufficient duration, frequency and 12 consistency that the conduct has become a traditional method of carrying out policy." 13 *Trevino v. Gates*, 99 F.3d 911, 918 (9th Cir. 1996). 14 Plaintiff sues NaphCare, Centurion, and Centene solely because they were 15 Defendants in *Hunter v. Paul*. These Defendants were dismissed on screening and had no 16 other involvement in *Hunter v. Paul*. Plaintiff therefore fails to state a claim against 17 NaphCare, Centurion, and Centene, and these Defendants will be dismissed. 18 D. Insurance Company Defendants 19 The insurance company Defendants did not act under color of state law, and Plaintiff 20 fails to allege any facts to support that he suffered any injury because of any conduct by 21 the Defendant insurance companies. Plaintiff has named the insurance companies as 22 Defendants solely because they were Defendants in *Hunter v. Paul*. Again, these 23 Defendants were dismissed on screening and had no other involvement in *Hunter v. Paul*. 24 The Court will dismiss Defendants Columbia Casualty Company, Scottsdale Insurance 25 Company, Zurich American Insurance, and Starr Indemnity Insurance Company. 26 E. Legally Malicious or Frivolous Claims 27 The Court finds Plaintiff's claims are legally malicious or frivolous within the 28 meaning of 28 U.S.C. § 1915A. The purpose of § 1915A is to ensure that the targets of 1 frivolous or malicious suits need not bear the expense of responding." *Nordstrom v. Ryan*, 2 762 F.3d 903, 920 n.1 (9th Cir. 2014) (internal quote marks omitted). A claim is 3 "frivolous" if it has "no basis in law or fact." *Andrews v. King*, 398 F.3d 1113, 1121 (9th 4 Cir. 2005) (citation omitted); *Knapp v. Hogan*, 738 F.3d 1106, 1109 (9th Cir. 2013). A 5 claim is "malicious if it was filed with the 'intention or desire to harm another.'" *Andrews*, 6 398 F.3d at 1121; *Knapp*, 738 F.3d at 1109. 7 The litigation history in *Hunter v. Paul* suggests that Plaintiff has a personal 8 vendetta against Defendant Barnes. Plaintiff, dissatisfied with the Court's rejections of his 9 attempts to disqualify Defendant Barnes in *Hunter v. Paul*, has turned to filing suit against 10 Barnes with the apparent "intention or desire to harm" Barnes. There is no arguable legal 11 basis for Plaintiff to sue Defendant Barnes for her representation of the Defendants in 12 *Hunter v. Paul*, to sue the Defendants whom Barnes represents, or to sue the Defendants 13 who were dismissed on screening. 14 For the foregoing reasons, Plaintiff fails to state a claim in the Complaint, and it will 15 be dismissed. 16 V. Dismissal Without Leave to Amend 17 Federal Rule of Civil Procedure 15(a) provides that leave to amend should be freely 18 granted "when justice so requires." Fed. R. Civ. P. 15(a). "The court considers five 19 factors in assessing the propriety of leave to amend—bad faith, undue delay, prejudice to 20 the opposing party, futility of amendment, and whether the plaintiff has previously 21 amended the complaint." *United States v. Corinthian Colleges*, 655 F.3d 984, 995 (9th 22 Cir. 2011) (citing *Johnson v. Buckley*, 356 F.3d 1067, 1077 (9th Cir. 2004)). Although a 23 pro se plaintiff is generally entitled to notice of the deficiencies of his claims and an 24

opportunity to amend, see *Akhtar v. Mesa*, 698 F.3d 1202, 1212 (9th Cir. 2012), the Ninth Circuit in *Corinthian Colleges* explained that leave to amend is not warranted unless the deficiencies “can be cured with additional allegations that are ‘consistent with the challenged pleading’ and that do not contradict the allegations in the original complaint,” 28 655 F.3d at 955 (quoting *Reddy v. Litton Indus., Inc.*, 912 F.2d 291, 296–97 (9th Cir. 1990)). 2 Plaintiff has sued only immune Defendants and Defendants who have no possible 3) involvement in the alleged injury. Moreover, the Court finds Plaintiff's claims are 4| malicious and frivolous within the meaning of 28 U.S.C. § 1915A. Thus, the defects in the 5) Complaint cannot be cured with additional allegations that are “‘consistent with the 6| challenged pleading’ and that do not contradict the allegations” in the Complaint. *Corinthian Colleges*, 655 F.3d at 955. The Court finds further leave to amend would be 8 | futile. The Court will therefore dismiss the Complaint without leave to amend. 9| ITIS ORDERED: 10 (1) Plaintiff’s Application to Proceed In Forma Pauperis (Doc. 9) is granted. 11 (2) As required by the accompanying Order to the appropriate government 12| agency, Plaintiff must pay the \$350.00 filing fee and is not assessed an initial partial filing 13 | fee. 14 (3) | The Complaint (Doc. 1) is dismissed for failure to state a claim pursuant to 28 U.S.C. § 1915A(b)(1), and the Clerk of Court must enter judgment accordingly. 16 (4) The Clerk of Court must make an entry on the docket stating that the 17 | dismissal for failure to state a claim may count as a “strike” under 28 U.S.C. § 1915(g). 18 (5) | The docket shall reflect that the Court, pursuant to 28 U.S.C. § □□□□□□□□ and Federal Rules of Appellate Procedure 24(a)(3)(A), has considered whether an appeal 20 | of this decision would be taken in good faith and certifies that an appeal would not be taken in good faith for the reasons stated in the Order and because there is no arguable factual or 22 | legal basis for an appeal. 23 Dated this 11th day of December, 2025. 24 26 07 _ James A. Teil Org Senior United States District Judge 28