

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Kevin Joseph Reed-Bey v. Bingyan Guo, Linmao Sun, Benjamin
Huang, and Rising Investments LLC

Reed-Bey v. Guo · No. 2:25-cv-01880-DAD-CKD (PS) · Decided September 19, 2025

SUMMARY

The United States District Court for the Eastern District of California recommends granting defendants’ motion to dismiss Kevin Joseph Reed-Bey’s fee-paid, pro se complaint challenging a Solano County unlawful detainer judgment. The court concludes that the claims are barred by the Rooker-Feldman and Noerr-Pennington doctrines and that the complaint fails to state a cognizable claim. The court recommends dismissal without leave to amend and addresses the parties’ requests for judicial notice.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	September 19, 2025
DOCKET	2:25-cv-01880-DAD-CKD (PS)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, proceeding pro se, filed a fee-paid federal action seeking to invalidate a Solano County Superior Court unlawful-detainer default judgment and restore possession. Defendants moved to dismiss under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). The magistrate judge recommends granting the motion without leave to amend.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded allegations as true and construes them in the light most favorable to the plaintiff, but need not accept conclusory allegations, unwarranted deductions, or unreasonable inferences; the complaint must contain sufficient factual matter to state a facially plausible claim. On a facial Rule 12(b)(1) challenge, the court accepts the complaint's factual allegations as true and determines whether they are sufficient to invoke federal subject-matter jurisdiction. Pro se pleadings are liberally construed.

PRECEDENTIAL VALUE	nonprecedential
PARTIES	Kevin Joseph Reed-Bey v. Bingyan Guo, Linmao Sun, Benjamin Huang, Rising Investments LLC

TOPICS

[motions to dismiss](#)
[subject matter jurisdiction](#)
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QUESTIONS PRESENTED

1. Whether the federal district court has subject-matter jurisdiction over plaintiff's action seeking to invalidate and undo a state-court unlawful-detainer judgment.
2. Whether plaintiff stated a cognizable claim supported by sufficient factual allegations under Rule 12(b)(6).
3. Whether defendants' filing and prosecution of the state unlawful-detainer action were protected petitioning activity under the Noerr-Pennington doctrine, and whether plaintiff adequately pleaded the sham-litigation exception.
4. Whether plaintiff should be granted leave to amend.

HOLDINGS

1. The action is barred by the Rooker-Feldman doctrine because plaintiff alleges a legal injury caused by the state-court judgment and seeks relief that would require the federal district court to declare the judgment void, vacate it, and restore possession.
2. Plaintiff failed to state a claim because he did not allege a cognizable legal theory or sufficient facts to support any cause of action.
3. Plaintiff's claims based on defendants' unlawful-detainer action are barred by the Noerr-Pennington doctrine, and plaintiff did not adequately plead facts supporting the sham-litigation exception.
4. Leave to amend should be denied because amendment would be futile.

KEY QUOTATIONS

“The Rooker-Feldman doctrine “prohibits a federal district court from exercising subject matter jurisdiction over a suit that is a de facto appeal from a state court judgment.”” (Discussion § 2)

“To survive a motion to dismiss and qualify for the sham litigation exception to Noerr-Pennington, a complaint must contain well-pleaded allegations that plausibly allege: (1) “the lawsuit is objectively baseless and the defendant’s motive in bringing it was unlawful”; (2) “where the conduct involves a series of lawsuits ‘brought pursuant to a policy of starting legal proceedings without regard to the merits’ and for an unlawful purpose”; or (3) that “the allegedly unlawful conduct consists of making intentional misrepresentations to the

court . . . if a party's knowing fraud upon, or its intentional misrepresentations to, the court deprive the litigation of its legitimacy.”” (Discussion § 3)

FACTUAL BACKGROUND

Plaintiff alleged that defendants Bingyan Guo and Linmao Sun obtained a clerk's default judgment in a Solano County unlawful-detainer proceeding on February 26, 2025. He claimed that the judgment was void because of fraud, jurisdictional defects, and the alleged lack of judicial power over a trust estate. Plaintiff sought to have the state judgment declared void, to vacate it, and to restore possession and legal recognition of his claimed estate.

PROCEDURAL HISTORY

Plaintiff filed the complaint on July 3, 2025. After plaintiff sought emergency relief and defendants moved to dismiss, the court took the motion under submission without oral argument. The court recommends dismissal because the action is barred by the Rooker-Feldman and Noerr-Pennington doctrines and because plaintiff failed to allege a cognizable legal theory or sufficient supporting facts. The recommendation was submitted to the assigned district judge under 28 U.S.C. § 636(b)(1), subject to objections.

DISPOSITION

other

CASES CITED

- *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990)
- *Hishon v. King & Spalding*, 467 U.S. 69, 73 (1984)
- *Love v. United States*, 915 F.2d 1242, 1245 (9th Cir. 1990)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
- *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 570 (2007)
- *Lopez v. Smith*, 203 F.3d 1122, 1130-31 (9th Cir. 2000) (en banc)
- *Hebbe v. Pliler*, 627 F.3d 338, 342 & n.7 (9th Cir. 2010)
- *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir. 2001)
- *Savage v. Glendale Union High Sch.*, 343 F.3d 1036, 1039-40 (9th Cir. 2003)
- *Warren v. Fox Fam. Worldwide, Inc.*, 328 F.3d 1136, 1139 (9th Cir. 2003)
- *White v. Lee*, 227 F.3d 1214, 1242 (9th Cir. 2000)
- *Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004)
- *Whisnant v. United States*, 400 F.3d 1177, 1179 (9th Cir. 2005)
- *Harrison v. Kernan*, 971 F.3d 1069, 1073 (9th Cir. 2020)
- *United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003)
- *Marder v. Lopez*, 450 F.3d 445, 448 (9th Cir. 2006)
- *Harris v. Cnty. of Orange*, 682 F.3d 1126, 1132 (9th Cir. 2012)
- *King v. California Dep't of Water Res.*, 561 F. Supp. 3d 906, 910 (E.D. Cal. 2021)

- Gamboa v. Tr. Corps., 2009 WL 656285, at *3 (N.D. Cal. Mar. 12, 2009)
- Rooker v. Fid. Trust Co., 263 U.S. 413 (1923)
- Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280, 283-84 (2005)
- Kougasian v. TMSL, Inc., 359 F.3d 1136, 1139 (9th Cir. 2004)
- Noel v. Hall, 341 F.3d 1148, 1158, 1163 (9th Cir. 2003)
- Jayaton-Kerry v. Cooper, 2024 WL 216265, at *8 (E.D. Cal. Jan. 19, 2024)
- Bey v. Linder, 2020 WL 5110357, at *3 (E.D. Cal. Aug. 31, 2020)
- Johnson v. Brown, 567 F. Supp. 3d 1230, 1255 (D. Or. 2021)
- Armstrong v. Exceptional Child Ctr., Inc., 575 U.S. 320, 324-25 (2015)
- Van Hop-el v. United States Dept. of State, 2019 WL 295774, at *3 n.2 (E.D. Cal. Jan. 23, 2019)
- Sosa v. DIRECTV, Inc., 437 F.3d 923, 929, 938 (9th Cir. 2006)
- Thomas v. Housing Auth. of Cnty. of Los Angeles, 2005 WL 6136440, at *11 (C.D. Cal. June 3, 2005)
- Freeman v. Lasky, Haas & Cohler, 410 F.3d 1180, 1184 (9th Cir. 2005)
- Boone v. Redevelopment Agency, 841 F.2d 886, 894 (9th Cir. 1988)
- Davis v. Miranda, 2020 WL 1904784, at *2 (E.D. Cal. Apr. 17, 2020)
- Cato v. United States, 70 F.3d 1103, 1105-06 (9th Cir. 1995)
- Cal. Architectural Bldg. Prod. v. Franciscan Ceramics, Inc., 818 F.2d 1466, 1472 (9th Cir. 1987)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir. 1991)

OPINION

Guo

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 KEVIN JOSEPH REED-BEY, No. 2:25-cv-01880-DAD-CKD (PS)

12 Plaintiff,

13 v. ORDER AND FINDINGS AND

RECOMMENDATIONS GRANTING

14 BINGYAN GUO, et al. DEFENDANTS' MOTION TO DISMISS

15 Defendants. (ECF No. 10) 16 17 18 Plaintiff Kevin Joseph Reed-Bey paid the filing fee and
 filed this civil action without 19 counsel. This matter is before the undersigned pursuant to 28
 U.S.C. § 636(b)(1) and Local Rule 20 302(c)(21). Presently before the Court is defendants
 Bingyan Guo, Linmao Sun, Benjamin 21 Huang, and Rising Investments LLC's motion to dismiss
 plaintiff's complaint. (ECF No. 10.) The 22 Court took the matter under submission without oral
 argument pursuant to Local Rule 230(g). 23 (ECF No. 21.) For the reasons set forth below,

defendants' motion should be GRANTED. 24 I. Procedural Background 25 Plaintiff filed his complaint on July 3, 2025. (ECF No. 1.) On July 16, 2025, plaintiff filed 26 a document titled "notice and invocation of constitutional injunctive authority" (ECF No. 6), 27 which the Court construed as a request for emergency relief under Federal Rule of Civil 28 Procedure 65. The Court recommended denying this motion (ECF No. 8), and plaintiff filed 1 objections (ECF No. 13). On July 29, 2025, defendants filed a motion to dismiss (ECF No. 10), 2 plaintiff filed an opposition (ECF No. 14), and defendant filed a reply (ECF No. 17). Plaintiff 3 filed multiple other documents. (ECF Nos. 12, 15, 18-20.) On September 11, 2025, the Court 4 vacated the hearing and took the matter under submission. (ECF No. 21.) 5 II. Allegations in the Complaint 6 Plaintiff initiated this action with a fee-paid complaint on July 3, 2025, against defendants 7 Bingyan Guo, Linmao Sun, Benjamin Huang, and Rising Investments, LLC. (ECF No. 1.) 8 Plaintiff alleges that on February 26, 2025, the Solano County Superior Court improperly issued a 9 clerk's default judgment in an unlawful detainer proceeding (Case No. CL25-01262) brought by 10 defendants Guo and Sun. (Id. at 2.) Plaintiff alleges that "fraud and jurisdictional defects render 11 the judgment void." (Id.) Plaintiff alleges that the challenged judgment "was issued by a 12 legislative tribunal that lacked judicial power over the trust estate." (Id. at 2.) Plaintiff seeks to 13 "vacate a void judgment unlawfully entered" by the Solano County Superior Court "styled as an 14 unlawful detainer default." (Id. at 1.) Through this action, plaintiff seeks to have the unlawful 15 detainer judgment declared void and restore possession of an estate to plaintiff. (Id. at 4.) Plaintiff 16 asserts rights under the "Treaty of Peace and Friendship (1836)," and "invokes the doctrine of 17 constructive trust." (Id. at 3.) 18 III. Legal Standard 19 1. Motion to Dismiss under Federal Rule of Civil Procedure 12(b)(6) 20 Dismissal under Rule 12(b)(6) may be warranted for "the lack of a cognizable legal theory 21 or the absence of sufficient facts alleged under a cognizable legal theory." *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1988). In evaluating whether a complaint states a claim 23 on which relief may be granted, the court accepts as true the allegations in the complaint and 24 construes the allegations in the light most favorable to the plaintiff. *Hishon v. King & Spalding*, 25 467 U.S. 69, 73 (1984); *Love v. United States*, 915 F.2d 1242, 1245 (9th Cir. 1989). 26 "[R]ecitals of the elements of a cause of action, supported by mere conclusory statements, 27 do not suffice" to state a valid claim for relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A 28 complaint must do more than allege mere "labels and conclusions" or "a formulaic recitation of 1 the elements of a cause of action." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). To 2 state a valid claim for relief, a plaintiff must allege "enough facts to state a claim to relief that is 3 plausible on its face." *Id.* at 570. A claim that is plausible on its face has sufficient factual content 4 to allow a reasonable inference that the defendant is liable for the misconduct alleged. *Iqbal*, 556 5 U.S. at 678. This plausibility standard "asks for more than a sheer possibility that a defendant has 6 acted unlawfully." *Id.* 7 The court must construe a pro se pleading liberally to determine whether it states a claim 8 and, before dismissal, tell a plaintiff of deficiencies in her complaint and give plaintiff an 9 opportunity to cure

them if it appears at all possible that the plaintiff can correct the defect. See 10 *Lopez v. Smith*, 203 F.3d 1122, 1130-31 (9th Cir. 2000) (en banc); accord *Balistreri*, 901 F.2d at 11 699 (stating that “pro se pleadings are liberally construed, particularly where civil rights claims 12 are involved”); see also *Hebbe v. Pliler*, 627 F.3d 338, 342 & n.7 (9th Cir. 2010) (stating that 13 courts continue to construe pro se filings liberally even when evaluating them under the standard 14 in *Iqbal*). But courts need not accept as true allegations that are merely conclusory, unwarranted 15 deductions of fact, or unreasonable inferences. *Spewell v. Golden State Warriors*, 266 F.3d 979, 16 988 (9th Cir. 2001). 17 2. Motion to Dismiss under Federal Rule of Civil Procedure 12(b)(1) 18 A motion to dismiss under Federal Rule of Civil Procedure 12(b)(1) tests the subject 19 matter jurisdiction of the court. *Savage v. Glendale Union High Sch.*, 343 F.3d 1036, 1039-40 20 (9th Cir. 2003). “A jurisdictional challenge under Rule 12(b)(1) may be made either on the face 21 of the pleadings or by presenting extrinsic evidence.” *Warren v. Fox Fam. Worldwide, Inc.*, 328 22 F.3d 1136, 1139 (9th Cir. 2003). Thus, a jurisdictional challenge can be either facial or factual. 23 *White v. Lee*, 227 F.3d 1214, 1242 (9th Cir. 2000). 24 In a facial attack, the moving party asserts that the allegations contained in the complaint 25 are insufficient on their face to invoke federal jurisdiction. *Safe Air for Everyone v. Meyer*, 373 26 F.3d 1035, 1039 (9th Cir. 2004). When evaluating a facial attack, the court must accept the 27 factual allegations in the plaintiff’s complaint as true. *Whisnant v. United States*, 400 F.3d 1177, 28 1179 (9th Cir. 2005). 1 A federal district court generally has jurisdiction over a civil action when: (1) a federal 2 question is presented in an action “arising under the Constitution, laws, or treaties of the United 3 States” or (2) there is complete diversity of citizenship and the amount in controversy exceeds 4 \$75,000. 28 U.S.C. §§ 1331, 1332(a). Further, a plaintiff must have standing to assert a claim, 5 which requires an injury in fact caused by defendant(s) that may be redressed in court. *Harrison v. 6 Kernan*, 971 F.3d 1069, 1073 (9th Cir. 2020). 7 3. Request for Judicial Notice 8 When reviewing a motion to dismiss, courts may consider undisputed facts contained in 9 judicially noticeable documents under Federal Rule of Evidence 201 without converting the 10 motion to one for summary judgment. *United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003). 11 This includes undisputed facts from documents attached to the complaint or those on which the 12 complaint “necessarily relies.” *Marder v. Lopez*, 450 F.3d 445, 448 (9th Cir. 2006); see *Harris v. 13 Cnty. of Orange*, 682 F.3d 1126, 1132 (9th Cir. 2012) (approving judicial notice of documents 14 from judicial proceedings); *King v. California Dep’t of Water Res.*, 561 F. Supp. 3d 906, 910 15 (E.D. Cal. 2021) (taking judicial notice of administrative agency records, including decisional 16 documents); *Gamboa v. Tr. Corps.*, 2009 WL 656285, at *3 (N.D. Cal. Mar. 12, 2009) (taking 17 judicial notice of recorded documents related to a foreclosure sale, including grant deed and deed 18 of trust, as they were “part of the public record and [] easily verifiable”). 19 IV. Discussion 20 Defendants move to dismiss plaintiff’s complaint for lack of subject matter jurisdiction 21 and failure to state a claim. (ECF No. 10.) 22 1. Requests for Judicial Notice 23 Defendant seeks judicial notice of the proof of service of summons and the judgment- 24 unlawful detainer filed

with the Solano County Superior Court on February 26, 2025. (ECF No. 25 10-1.) The Court grants defendant's request. See *Harris v. Cnty. of Orange*, 682 F.3d 1126, 1132 26 (9th Cir. 2012) (stating the court may take judicial notice of documents on file in federal or state 27 courts). Taking judicial notice of these documents does not mean accepting the allegations or 28 facts contained as true. See *Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 999 (9th Cir. 1 2018) ("Just because the document itself is susceptible to judicial notice does not mean that every 2 assertion of fact within that document is judicially noticeable for its truth."). 3 Plaintiff also filed a request for judicial notice, seeking judicial notice of the following: 4 "supplemental brief in support of injunctive relief," "affidavit of irreparable harm and denotative 5 standing," "proposed order granting emergency injunctive relief and restoration of possession," 6 and "proof of service." (ECF No. 18 at 2.) However, plaintiff has not provided a copy of these 7 documents or clearly indicated what these documents are. Therefore, the Court DENIES 8 plaintiff's request for judicial notice. 9 2. The Court Lacks Subject Matter Jurisdiction 10 Defendants argue that plaintiff's claims are barred by the Rooker-Feldman doctrine 11 because plaintiff seeks to reverse the judgment entered against him in state court. (ECF No. 10 at 12 5.) Federal district courts do not have appellate jurisdiction over state courts. See *Rooker v. Fid. 13 Trust Co.*, 263 U.S. 413 (1923); *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 14 283-84 (2005). The Rooker-Feldman doctrine "prohibits a federal district court from exercising 15 subject matter jurisdiction over a suit that is a de facto appeal from a state court judgment." 16 *Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1139 (9th Cir. 2004). 17 A federal court action constitutes a forbidden de facto appeal under Rooker-Feldman 18 when the plaintiff complains of a legal injury caused by a state court judgment, based on an 19 allegedly erroneous legal ruling, in a case in which the federal plaintiff was one of the litigants. 20 *Noel v. Hall*, 341 F.3d 1148, 1163 (9th Cir. 2003). Or the plaintiff may complain of harm caused 21 by a state court judgment that directly withholds a benefit from the plaintiff, based on an 22 allegedly erroneous ruling by the court. *Id.* "Once a federal plaintiff seeks to bring a forbidden de 23 facto appeal, . . . that federal plaintiff may not seek to litigate an issue that is 'inextricably 24 intertwined' with the state court judicial decision from which the forbidden de facto appeal is 25 brought." *Id.* at 1158. 26 Here, plaintiff's claims are barred by the Rooker-Feldman doctrine. Plaintiff seeks to 27 "vacate a void judgment unlawfully entered by the Superior Court of California, Couty of 28 Solano," an unlawful detainer case (Case No. CL25-01262). (ECF No. 1 at 1.) Plaintiff is 1 requesting that the Court declare the unlawful detainer judgment void, vacate the judgment, and 2 restore possession and legal recognition of plaintiff's estate. (*Id.* at 4.) Plaintiff is complaining of 3 an alleged legal injury caused by the state court's judgment in the unlawful detainer case. See 4 *Noel*, 341 F.3d at 1163. A ruling in plaintiff's favor would necessarily disturb the state court 5 ruling, violating the Rooker-Feldman doctrine. See *Jayaton-Kerry v. Cooper*, 2024 WL 216265, 6 at *8 (E.D. Cal. Jan. 19, 2024.) Accordingly, defendant's motion should be granted on this 7 ground. 8 Defendant also argues that plaintiff's constitutional claims are frivolous. (ECF No. 10 at 9 7-10.) Plaintiff cites the "Treaty of Peace and

Friendship” as a basis for his claims. (ECF No. 1 at 10 3.) “Claims based on the violation of the Treaty of Peace and Friendship have repeatedly been 11 found to be frivolous.” *Bey v. Linder*, 2020 WL 5110357, at *3 (E.D. Cal. Aug. 31, 2020) (citing 12 cases). 13 Plaintiff also attempts to invoke this Court’s jurisdiction under the Supremacy Clause, 14 “indigenous status, consular authority, and adverse trust rights secured by the United Nations 15 Declaration on the Rights of Indigenous Peoples.” (ECF No. 1 at 2.) However, plaintiff’s attempt 16 fails. The Supremacy Clause does not provide an independent cause of action. *Johnson v. Brown*, 17 567 F. Supp. 3d 1230, 1255 (D. Or. 2021) (citing *Armstrong v. Exceptional Child Ctr., Inc.*, 575 18 U.S. 320, 324-25 (2015)). Further, there is no private right of action under the United Nations 19 Declaration on the Rights of Indigenous Peoples. *Van Hop-el v. United States Dept. of State*, 20 2019 WL 295774, at *3 n.2 (E.D. Cal. Jan. 23, 2019) (citing cases). Accordingly, defendant’s 21 motion should be granted on this ground. 22 3. Failure to State a Claim 23 Defendant also argues that plaintiff has failed to state a claim. (ECF No. 10 at 10.) 24 Defendant states the same arguments made for lack of subject matter jurisdiction apply under

25 Rule 12(b)(6). (Id.) Further, defendant argues that plaintiff’s claims are barred by the Noerr- 26 Pennington doctrine. (Id.) 27 Plaintiff has failed to state a claim. Plaintiff has not sufficiently put forth a cognizable 28 legal theory or sufficiently alleged facts to support any cause of action. See *Balistreri*, 901 F.2d at 1 699. Plaintiff alleges that the judgment in the unlawful detainer case in state court is void based 2 on fraud, but has not alleged any facts sufficient to state a claim. 3 Further, plaintiff’s claims based on an unlawful detainer action are barred by the Noerr- 4 Pennington doctrine. Noerr-Pennington protects from liability “those who petition any department 5 of the government for redress.” *Sosa v. DIRECTV, Inc.*, 437 F.3d 923, 929 (9th Cir. 2006); see 6 *Thomas v. Housing Auth. of Cnty. of Los Angeles*, 2005 WL 6136440, at *11 (C.D. Cal. June 3, 7 2005) (finding that under Noerr-Pennington, “plaintiffs may not pursue FHA or Rehabilitation 8 Act claims based on defendants’ filing and prosecution of the state court unlawful detainer 9 action”). Protected activity includes representing a party in a court proceeding and filing papers 10 with a court. See *Freeman v. Lasky, Haas & Cohler*, 410 F.3d 1180, 1184 (9th Cir. 2005). 11 Noerr-Pennington does not, however, extend to “sham litigation.” *Sousa*, 437 F.3d at 938. 12 “In order not to chill legitimate [petitioning activity protected by the First Amendment], it is 13 important that a plaintiff’s complaint contain specific allegations demonstrating that the Noerr- 14 Pennington protections do not apply. Conclusory allegations are insufficient to strip them of their 15 Noerr-Pennington protection.” *Boone v. Redevelopment Agency*, 841 F.2d 886, 894 (9th Cir. 16 1988) (citation omitted). To survive a motion to dismiss and qualify for the sham litigation 17 exception to Noerr-Pennington, a complaint must contain well-pleaded allegations that plausibly 18 allege: (1) “the lawsuit is objectively baseless and the defendant’s motive in bringing it was 19 unlawful”; (2) “where the conduct involves a series of lawsuits ‘brought pursuant to a policy of 20 starting legal proceedings without regard to the merits’ and for an unlawful purpose”; or (3) that 21 “the allegedly unlawful conduct consists of making intentional misrepresentations to the court .

. . 22 if a party's knowing fraud upon, or its intentional misrepresentations to, the court deprive the
23 litigation of its legitimacy." Sosa, 437 F.3d at 938 (citation and internal quotations omitted). 24
Here, plaintiff has failed to allege that the unlawful detainer action was baseless or that the 25
action was based on intentional misrepresentations to the court. See Sosa, 437 F.3d at 938. There
26 is no indication that the conduct involves a series of lawsuits. See *id.* Plaintiff only provides 27
conclusory allegations that the unlawful detainer action was based on fraud without providing 28
sufficient facts supporting this allegation. Accordingly, plaintiff has not met the "sham litigation" 1
exception to Noerr-Pennington. 2 Therefore, plaintiff has failed to state a claim and defendant's
motion to dismiss should be 3 granted on this ground. 4 V. Leave to Amend 5 If the court finds that
a complaint or claim should be dismissed for failure to state a claim, 6 the court has discretion to
dismiss with or without leave to amend. See *Davis v. Miranda*, 2020 7 WL 1904784, at *2 (E.D.
Cal. Apr. 17, 2020). Leave to amend should be freely granted when 8 justice so requires, Fed. R.
Civ. P. 15(a), and if it appears possible that the defects in the 9 complaint could be corrected,
especially if a plaintiff is pro se, *Lopez*, 203 F.3d at 1130-31; *Cato 10 v. United States*, 70 F.3d
1103, 1106 (9th Cir. 1995) ("A pro se litigant must be given leave to 11 amend his or her
complaint, and some notice of its deficiencies, unless it is absolutely clear that 12 the deficiencies
of the complaint could not be cured by amendment." (citation omitted)). 13 However, if, after
careful consideration, it is clear that a claim cannot be cured by amendment, 14 the court may
dismiss without leave to amend. *Cato*, 70 F.3d at 1105-06; *Cal. Architectural Bldg. 15 Prod. v.*
Franciscan Ceramics, Inc., 818 F.2d 1466, 1472 (9th Cir. 1987) ("Valid reasons for 16 denying
leave to amend include undue delay, bad faith, prejudice, and futility."). 17 Here, the Court finds
that plaintiff's claims are barred by the Rooker-Feldman and Noerr- 18 Pennington doctrines.
Accordingly, the Court recommends granting defendant's motion to 19 dismiss without leave to
amend as amendment would be futile. 20 VI. Conclusion and Recommendation 21 For all the
reasons set forth above, IT IS HEREBY ORDERED that: 22 1. Defendant's request for judicial
notice (ECF No. 10-1) is GRANTED; and 23 2. Plaintiff's request for judicial notice (ECF NO.
18) is DENIED. 24 Further, IT IS HEREBY RECOMMENDED that defendant's motion to
dismiss (ECF No. 25 10) be GRANTED without leave to amend. 26 These findings and
recommendations are submitted to the United States District Judge 27 assigned to the case,
pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14) 28 days after being
served with these findings and recommendations, any party may file written 1 | objections with the
court and serve a copy on all parties. Such a document should be captioned 2 || "Objections to
Magistrate Judge's Findings and Recommendations." Any reply to the objections 3 || shall be
served on all parties and filed with the court within seven (7) days after service of the 4 ||
objections. Failure to file objections within the specified time may waive the right to appeal the 5 ||
District court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 6
|| F.2d 1153, 1156-57 (9th Cir. 1991). 7 | Dated: September 18, 2025 (aie } Kt | / } a a

9 UNITED STATES MAGISTRATE JUDGE

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