

**UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA**

Swann v. Intel Problems & Solutions, et al.

Case No. 4:23-cv-06625-KAW · No. 4:23-cv-06625-KAW · Decided March 12, 2025

SUMMARY

The United States District Court for the Northern District of California screened Blake O'Bryan Swann's complaint under 28 U.S.C. § 1915(e)(2) and found it insufficient because it did not clearly identify the consumer law claims or provide an adequate factual basis. The court ordered Plaintiff to file an amended complaint by April 11, 2025 and continued the case management conference to August 5, 2025.

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7
BLAKE O'BRYAN SWANN, Case No. 4:23-cv-06625-KAW 8 Plaintiff, SCREENING ORDER
REVIEWING PLAINTIFF'S COMPLAINT; ORDER 9 v. CONTINUING CASE
MANAGEMENT CONFERENCE 10 INTEL PROBLEMS & SOLUTIONS, et al., Re: Dkt. No.
1 11 Defendants. 12 13 On December 26, 2023, Plaintiff Blake O'Bryan Swann filed this civil
action and 14 application to proceed in forma pauperis.

Plaintiff received several extensions of time to file an 15 amended application to proceed in forma
pauperis, which was ultimately granted on February 20, 16 2025. (Dkt. No. 23.) The Court now
screens Plaintiff's complaint pursuant to 28 U.S.C. § 1915, 17 and, for the reasons set forth below,
concludes that the operative complaint is deficient. 18 I. LEGAL STANDARD 19 The in forma
pauperis statute provides that the Court shall dismiss the case if at any time 20 the Court
determines that the allegation of poverty is untrue, or that the action (1) is frivolous or 21
malicious, (2) fails to state a claim on which relief may be granted; or (3) seeks monetary relief 22
against a defendant who is immune from such relief.

28 U.S.C. § 1915(e)(2). 23 A complaint is frivolous under Section 1915 where there is no subject
matter jurisdiction. 24 See *Castillo v. Marshall*, 207 F.3d 15, 15 (9th Cir. 1997) (citation omitted);
see also *Pratt v. Sumner*, 25 807 F.2d 817, 819 (9th Cir. 19987) (recognizing the general
proposition that a complaint should be 26 dismissed as frivolous on Section 1915 review where
subject matter jurisdiction is lacking).

27 A complaint may also be dismissed for failure to state a claim, because Section 1915(e)(2) 1
1126-27 (9th Cir. 2000). The complaint, therefore, must allege facts that plausibly establish the 2
defendant's liability. See *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555-57 (2007). When the 3

complaint has been filed by a pro se plaintiff, courts must “construe the pleadings liberally... to 4 afford the petitioner the benefit of any doubt.” *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir.

5 2010)(citations omitted). Upon dismissal, pro se plaintiffs proceeding in forma pauperis must be 6 given leave to “amend their complaint unless it is absolutely clear that the deficiencies of the 7 complaint could not be cured by amendment.” *Franklin v. Murphy*, 745 F.2d 1221, 1235 n.9 (9th 8 Cir. 1984) (internal citations and quotation marks omitted); *Lopez v. Smith*, 203 F.3d 1122, 1130- 9 31 (9th Cir.

2000). 10 II. DISCUSSION 11 As courts of limited jurisdiction, “federal courts have an independent obligation to ensure 12 that they do not exceed the scope of their jurisdiction.” *Henderson ex rel. Henderson v. Shinseki*, 13 562 U.S. 428, 434 (2011); *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1116 (9th Cir. 2004) (noting 14 that district courts are “obligated to consider sua sponte whether [they] have subject matter 15 jurisdiction”).

There are two bases for federal subject matter jurisdiction: (1) federal question 16 jurisdiction under 28 U.S.C. § 1331 and (2) diversity jurisdiction under 28 U.S.C. § 1332. A 17 district court has federal question jurisdiction in “all civil actions arising under the Constitution, 18 laws, or treaties of the United States.” *Id.* at § 1331. A cause of action “arises under federal law 19 only when the plaintiff’s well-pleaded complaint raises issues of federal law.” *Hansen v. Blue 20 Cross of Cal.*, 891 F.2d 1384, 1386 (9th Cir.

1989). A district court has diversity jurisdiction 21 “where the matter in controversy exceeds the sum or value of \$75,000... and is between citizens 22 of different states, or citizens of a State and citizens or subjects of a foreign state.” *Id.* 23 Here, Plaintiff appears to be alleging that a computer he purchased and “sent off” never 24 returned. (See Compl., Dkt.

No. 1 at 4.) Plaintiff contends that this is a “consumer law” and that 25 he suffered economic and emotional distress damages because of Defendants’ actions. *Id.* at 3-4. 26 Plaintiff, however, cites to an “affidavit of complaint” to provide the statement of facts, but no 27 such document has been filed. See *id.* at 2.

As a result, the Court cannot determine the facts which 1 form the basis of this lawsuit. Moreover, Plaintiff needs to identify which consumer law he is 2 || alleging for each claim— listing “consumer law” for the claim is not sufficient.

Thus, Plaintiff 3 || has failed to set forth “a short and plain statement of the claim showing that the pleader is entitled 4 || to relief” as required by Rule 8 of the Federal Rules of Civil Procedure. 5 Accordingly, the Court concludes that the complaint is insufficient to satisfy Section 1915 6 || review. 7 WI. CONCLUSION 8 For the reasons set forth above, the allegations in Plaintiff’s complaint are insufficient 9 || under 28 U.S.C. § 1915(e)(2).

Thus, Plaintiff must clearly provide the legal and factual basis for 10 || all claims and must do so by filing an amended complaint by April 11, 2025. If Plaintiff fails to 11 file an amended complaint by that date, or the amended complaint fails to cure all defects, the case 12 || will be reassigned to a district judge with the report and recommendation that either the complaint 13 be dismissed in whole or in part or the case be dismissed in its entirety.

14 In amending the complaint, Plaintiff may wish to contact the Federal Pro Bono Project's 3 15 Help Desk for assistance—a free service for pro se litigants—by calling (415) 782-8982 to make a 16 an appointment. While the Help Desk does not provide legal representation, a licensed attorney 3 17 may assist Plaintiff in determining whether there are viable claims, and how to properly plead 18 || them.

19 Plaintiff may also wish to consult a manual the court has adopted to assist pro se litigants 20 || in presenting their case. This manual, and other free information for pro se litigants, is available 21 online at: <https://cand.uscourts.gov/pro-se-litigants/>. 22 Finally, the Court continues the case management conference set for March 18, 2025 to 23 August 5, 2025 at 1:30 p.m.

Case management statements are due on or before July 29, 2025. 24 IT IS SO ORDERED. 25 ||
Dated: March 11, 2025. 27 United States Magistrate Judge 28