

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

Tiffany Harrison Shabazz v. Debra Kahn, et al.

Shabazz v. Kahn · No. 2:25-cv-02813-TLN-CSK PS · Decided December 1, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 TIFFANY HARRISON SHABAZZ, Case No. 2:25-cv-02813-TLN-CSK PS
12 Plaintiff, 13 v. ORDER GRANTING IFP REQUEST AND GRANTING LEAVE TO AMEND
14 DEBRA KAHN, et al., (ECF Nos. 1, 3) 15 Defendants. 16 Plaintiff Tiffany Harrison Shabazz
is representing herself in this action and seeks 17 leave to proceed in forma pauperis (“IFP”)
pursuant to 28 U.S.C. § 1915.1 (ECF No. 3.)

18 Plaintiff’s application in support of the IFP request makes the required financial showing. 19
Accordingly, the Court grants Plaintiff’s IFP request. 20 I. SCREENING REQUIREMENT 21
Pursuant to 28 U.S.C. § 1915(e), the court must screen every in forma pauperis 22 proceeding,
and must order dismissal of the case if it is “frivolous or malicious,” “fails to 23 state a claim on
which relief may be granted,” or “seeks monetary relief against a 24 defendant who is immune
from such relief.” 28 U.S.C. § 1915(e)(2)(B); *Lopez v. Smith*, 25 203 F.3d 1122, 1126-27 (2000)
(en banc).

A claim is legally frivolous when it lacks an 26 27 1 This matter proceeds before the undersigned
pursuant to 28 U.S.C. § 636, Fed. R. 28 Civ. P. 72, and Local Rule 302(c). 1 arguable basis either
in law or in fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

In 2 reviewing a complaint under this standard, the court accepts as true the factual 3 allegations
contained in the complaint, unless they are clearly baseless or fanciful, and 4 construes those
allegations in the light most favorable to the plaintiff. See *Neitzke*, 490 5 U.S. at 327; *Von Saher v.*
Norton Simon Museum of Art at Pasadena, 592 F.3d 954, 960 6 (9th Cir.

2010), cert. denied, 564 U.S. 1037 (2011). 7 Pleadings by self-represented litigants are liberally
construed. *Hebbe v. Pliler*, 627 8 F.3d 338, 342 & n.7 (9th Cir. 2010) (liberal construction
appropriate even post-*Iqbal*). 9 However, the court need not accept as true conclusory allegations,
unreasonable 10 inferences, or unwarranted deductions of fact. *Western Mining Council v. Watt*,
643 F.2d 11 618, 624 (9th Cir.

1981). A formulaic recitation of the elements of a cause of action does 12 not suffice to state a
claim. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-57 (2007); 13 *Ashcroft v. Iqbal*, 556
U.S. 662, 678 (2009). 14 To state a claim on which relief may be granted, the plaintiff must allege

enough 15 facts “to state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. “A 16 claim has facial plausibility when the plaintiff pleads factual content that allows the court 17 to draw the reasonable inference that the defendant is liable for the misconduct alleged.” 18 *Iqbal*, 556 U.S. at 678.

A pro se litigant is entitled to notice of the deficiencies in the 19 complaint and an opportunity to amend unless the complaint’s deficiencies could not be 20 cured by amendment. See *Lopez*, 203 F.3d at 1130-31; *Cahill v. Liberty Mut. Ins. Co.*, 80 21 F.3d 336, 339 (9th Cir. 1996). 22 II. DISCUSSION 23 Plaintiff brings three causes of action against Defendants Dr. Kahn, Christine 24 (RN), and Susan Peck: (1) wrongful death; (2) elder abuse/neglect under California 25 Welfare & Institutions Code § 15600 et seq.; and (3) interference with civil rights/familial 26 association under 42 U.S.C. § 1983.

See Compl. (ECF No. 1). Plaintiff’s claims appear 27 to relate to an incident that took place beginning “in or around” 2021, and lasted 28 approximately ten months. Compl. ¶¶ 6, 7. Plaintiff alleges that in 2021, Iman Shabazz, 1 Plaintiff’s spouse, was hospitalized and later transferred into long-term care. Compl. 2 ¶¶ 1, 6. Defendants confiscated Iman Shabazz’s personal cell phone and his daughter’s 3 phone for approximately ten months, “isolating him from his wife, children, and 4 advocates.” Compl. ¶ 7.

5 A. Pro Se Representation 6 Plaintiff brings this action “individually and as a representative of the Estate of 7 Iman Shabazz, and on behalf of minor children[.]” Compl. at 1. Plaintiff is not able to 8 bring a claim on behalf of her minor children, because she cannot represent others pro 9 se. See *Johns v. Cnty. of San Diego*, 114 F.3d 874, 877 (9th Cir. 1997) (“[W]e hold that 10 a parent or guardian cannot bring an action on behalf of a minor child without retaining a 11 lawyer.”); C.E.

Pope Equity Trust v. United States, 818 F.2d 696, 697 (9th Cir. 1987) (pro 12 se party “has no authority to appear as an attorney for others than himself”). Further, 13 Plaintiff is not able to bring a claim on behalf on the Estate of Iman Shabazz for the 14 same reason. See *Gutierrez v. Dep’t of Children & Family Servs.* (D.C.F.S.), 2022 WL 15 3574691, at *2 (C.D.

Cal. Feb. 3, 2022) (finding the plaintiff could not sue on behalf of 16 the estate of his daughter). If Plaintiff wishes to bring claims on behalf of the estate and 17 her minor children, she will need to retain a lawyer. 18 B. Statute of Limitations for 42 U.S.C. § 1983 19 Section 1983 does not contain a specific statute of limitations, so federal courts 20 apply “the law of the state in which the cause of action arose and apply the state law of 21 limitations governing an analogous cause of action.

Pouncil v. Tilton, 704 F.3d 568, 573 22 (9th Cir. 2012) (citing *Wallace v. Kato*, 549 U.S. 384, 387 (2007)). For Section 1983 23 actions, federal courts apply the “forum state’s statute of limitations for personal injury 24 actions, along with the forum state’s law regarding tolling, including

equitable tolling, 25 except to the extent any of these laws is inconsistent with federal law.” *Butler v. Nat.*

26 *Cnty. Renaissance of Cal.*, 766 F.3d 1191, 1198 (9th Cir. 2014) (internal quotation 27 marks and citations omitted). 28 Under California law, the statute of limitations for personal injury actions is two 1 years. *Butler*, 766 F.3d at 1198 (citing Cal. Code Civ. P. § 335.1). This limitations period 2 is statutorily tolled for a period of two years for person who is, “at the time the cause of 3 action accrued, imprisoned on a criminal charge, or in execution under the sentence of a 4 criminal court for a term less than for life.” See Cal. Code Civ.

P. § 352.1(a); *Johnson v. 5 State of California*, 207 F.3d 650, 654 (9th Cir. 2000). The statute of limitations can be 6 suspended by equitable tolling as well. See *Jones v. Blanas*, 393 F.3d 918, 928 (9th Cir. 7 2004).

Under California law, equitable tolling suspends or extends a statute of limitations 8 when an injured person has several potential legal remedies and pursues one 9 reasonably and in good faith. *Honchariw v. Cnty. of Stanislaus*, 530 F. Supp. 3d 939, 10 949-50 (E.D. Cal. Mar. 31, 2021) (citing *McDonald v. Antelope Valley Cnty. Coll. Dist.*, 11 45 Cal.4th 88, 99-100 (2008)).

To determine whether equitable tolling may extend a 12 statute of limitations, courts look at whether plaintiff has provided timely notice to the 13 defendant, whether there is lack of prejudice to defendant, and whether plaintiff had 14 acted reasonably and in good faith. *Id.* at 950. Failure to comply with the applicable 15 statute of limitations may be grounds for dismissal at the screening stage if it is apparent 16 from the face of the complaint that the plaintiff cannot “prevail, as a matter of law, on the 17 equitable tolling issue.” *Callins v. Mason*, 2022 WL 1720951, at *2 (E.D.

Cal. May 27, 18 2022) (citing *Cervantes v. City of San Diego*, 5 F.3d 1273, 1276 (9th Cir. 1993)). 19 Here, it appears that Plaintiff has brought her claims in this Court well after the 20 two-year statute of limitations period. Construing the Complaint liberally, the alleged 21 wrongful conduct began at the end of 2021 and lasted around ten months, with the 22 challenged conduct ending around the end of 2022.

Plaintiff’s claim is therefore outside 23 the two year statute of limitations timeline. The Complaint in its current form does not 24 allege any facts to suggest equitable or statutory tolling. See generally *Compl.* 25 Therefore, the Complaint is dismissed as time barred.

However, because it is 26 conceivable that Plaintiff may be able to allege facts to justify equitable tolling or some 27 other tolling of the limitations period, the Court will dismiss these claims without 28 prejudice.

The Court notes that if Plaintiff amends in an effort to plead cognizable claims, 1 the amended complaint must plead additional facts, including facts regarding tolling of 2 the limitations period.

3 C. Improper Defendants Under 42 U.S.C. § 1983 4 Plaintiff brings one claim against Defendants under 42 U.S.C. § 1983, which 5 provides a cause of action for the deprivation of rights, privileges, or immunities secured 6 by the Constitution or laws of the United States by a person acting “under color of any 7 statute.” *Gomez v. Toledo*, 446 U.S. 635, 638 (1980).

Section 1983 claims must 8 demonstrate the defendant (1) acted under color of state law; and (2) caused a plaintiff 9 to be deprived of a right secured by the Constitution or laws of the United States. See 10 *Lindke v. Freed*, 601 U.S. 187, 194 (2024). Plaintiff attempts to bring three causes of 11 action against Defendants Dr. Debra Kahn, Christine (RN), and Susan Peck, who each 12 appear to be private actors based on the Complaint’s allegations.

See Compl. ¶¶ 1-4. 13 Generally, private parties do not act under color of state law. *Price v. Hawaii*, 939 14 F.2d 702, 707-08 (9th Cir. 1991); *Sutton v. Providence St. Joseph Med. Ctr.*, 192 F.3d 15 826, 835 (9th Cir. 1999).

However, a private entity’s action may be “under color of state 16 law” where there is “significant” state involvement in the action. *Franklin v. Fox*, 312 F.3d 17 423, 444 (9th Cir. 2002) (citation omitted). To determine whether actions committed by 18 private actors that allegedly caused the deprivation of a right are fairly attributable to the 19 state, the court must determine whether the depriving party is “a person who may fairly 20 be said to be a state actor.” *Florer v. Congregation Pidyon Shevuyim, N.A.*, 639 F.3d 21 916, 922 (9th Cir.

2011) (citation omitted). 22 Here, Plaintiff has not alleged sufficient facts to establish significant state 23 involvement in Defendants’ actions. Plaintiff alleges that beginning in or around 2021, 24 her deceased spouse Iman Shabazz was hospitalized and transferred to long-term care. 25 Compl. ¶ 6. During this period, Defendants “engaged in conduct that deprived him of 26 essential rights and protections.” *Id.* Plaintiff alleges that Defendant Dr. Kahn was a 27 physician involved in Iman Shabazz’s care, Defendant Christine was a registered nurse 28 involved in his care, and Defendant Peck was a staff member involved in decisions 1 restricting Iman Shabazz’s communications and medical autonomy.

Id. ¶¶ 2-4. As a 2 general matter, private hospitals and doctors are not state actors and therefore cannot 3 be sued under § 1983.” *Felix v. Casey*, 2021 WL 2209828, at *2 (E.D. Cal. June 1, 2021) 4 (citing *Briley v. California*, 564 F.2d, 855-856 (9th Cir. 1977)).

Here, Plaintiff has not pled 5 sufficient allegations showing that Defendants acted under color of state law, or the 6 involvement of any government actor, in providing medical care to Plaintiff’s husband. 7 Accordingly, Plaintiff’s causes of actions against Defendants are dismissed with leave to 8 amend. Plaintiff will be provided an opportunity to amend her Complaint, and if she can 9 plead such facts, an amendment must allege sufficient facts that Defendants acted 10 under color of state law.

11 D. Plaintiff's State Law Claims 12 Plaintiff brings claims for wrongful death and elder abuse/neglect against all 13 Defendants. Plaintiff alleges that Defendants' conduct "deprived [Iman Shabazz] of his 14 essential rights and protections" and that Defendants confiscated his and his daughter's 15 cell phone, isolating him from his family. Compl. ¶¶ 6-7. Plaintiff alleges this deliberate 16 indifference "caused extreme emotional distress to both Iman [Shabazz] and his family, 17 prevented him from communicating his wishes, and contributed to further neglect and 18 deterioration of his health." Compl. ¶ 8.

Further, Plaintiff alleges that Defendants acted 19 with "reckless disregard for Iman [Shabazz's] medical needs, personal dignity, and family 20 rights." Compl. ¶ 9. 21 Plaintiff fails to state a claim for wrongful death against Defendants.

The elements 22 of a California wrongful death claim are: (1) a wrongful act or neglect on the part of one 23 or more persons that (2) causes (3) the death of another person. *Estate of Prasad ex rel. 24 Prasad v. Cnty. of Sutter*, 958 F. Supp. 2d 1101, 1118 (E.D. Cal. 2013) (citing *Norgart v. 25 Upjohn Co.*, 21 Cal.4th 383, 390 (1999)).

The Complaint's allegations are insufficient to 26 state a claim for wrongful death. Accordingly, Plaintiff's claim is dismissed with leave to 27 amend to the extent she can alleged additional facts to support her claim. 28 Plaintiff also fails to state a claim for elder abuse/neglect against Defendants. 1 Under the California Welfare and Institutions Code, "elder" is defined as any person 2 residing in this state, who is 65 years of age or older.

Cal. Welf. & Inst. Code § 15610.27. 3 Plaintiff has not alleged that Iman Shabazz is 65 years of age or older. See Compl. 4 Further, to state a claim for elder abuse under California law, a plaintiff must show that 5 the defendant (1) "subjected an elder to statutorily-defined physical abuse, neglect, of 6 financial abuse" and (2) "acted with recklessness, malice, oppression, or fraud in the 7 commission of the abuse." *Jack v. Jack*, 2013 WL 557019, at *3 (N.D.

Cal. Feb. 12, 8 2013) (citing *Von Mangolt Hills v. Intensive Air, Inc.*, 2007 WL 521222, at *2 (N.D. Cal. 9 Feb. 15, 2007)). Under the California Welfare and Institutions Code, one of the 10 meanings of "neglect" is "[t]he negligent failure of any person having the care or custody 11 of an elder or a dependent adult to exercise that degree of care that a reasonable 12 person in a like position would exercise." Cal. Welf. & Inst.

Code § 15610.57(a)(1). The 13 Complaint's allegations are insufficient to state a elder abuse claim. Accordingly, 14 Plaintiff's elder abuse claim is dismissed with leave to amend to the extent she can 15 allege additional facts to support such a claim. 16 E. Leave to Amend 17 Although the Federal Rules adopt a flexible pleading policy, even a pro se 18 litigant's complaint must give fair notice and state the elements of a claim plainly and 19 succinctly.

Jones v. Community Redev. Agency, 733 F.2d 646, 649 (9th Cir. 1984). In 20 light of Plaintiff's pro se status, and because it is at least conceivable that Plaintiff could 21 allege additional facts to state claims under Section 1983, wrongful death, and elder 22 abuse, the Court finds it appropriate to grant Plaintiff an opportunity to amend the 23 Complaint.

See *Lopez*, 203 F.3d at 1130-31 (indicating that prior to dismissal, the court 24 is to tell the plaintiff of deficiencies in the complaint and provide an opportunity to cure – 25 if it appears at all possible the defects can be corrected). 26 If Plaintiff elects to file an amended complaint, this new pleading shall allege facts 27 establishing the existence of federal jurisdiction and must contain a short and plain 28 statement of Plaintiff's claim.

The allegations of the complaint must be set forth in 1 sequentially numbered paragraphs, with each paragraph number being one greater than 2 the one before, each paragraph having its own number, and no paragraph number being 3 repeated anywhere in the complaint. Each paragraph should be limited "to a single set of 4 circumstances" where possible. See Fed. R. Civ.

P. 10(b). Forms are available to help 5 plaintiffs organize their complaint in the proper way. They are available at the Clerk's 6 Office, 501 I Street, 4th Floor (Rm. 4-200), Sacramento, CA 95814, or online at 7 www.uscourts.gov/forms/pro-se-forms. 8 The amended complaint must not require the court and the defendants to guess 9 at what is being alleged against whom.

See *McHenry v. Renne*, 84 F.3d 1172, 1177 (9th 10 Cir. 1996) (affirming dismissal of a complaint where the district court was "literally 11 guessing as to what facts support the legal claims being asserted against certain 12 defendants").

The amended complaint must not require the Court to spend its time 13 "preparing the 'short and plain statement' which Rule 8 obligated plaintiffs to submit." *Id.* 14 at 1180. The amended complaint must not require the Court and defendants to prepare 15 lengthy outlines "to determine who is being sued for what." *Id.* at 1179. 16 Plaintiff is informed that the court cannot refer to a prior complaint or other filing in 17 order to make the amended complaint complete.

Local Rule 220 requires that an 18 amended complaint be complete in itself without reference to any prior pleading. As a 19 general rule, an amended complaint supersedes prior complaint(s), and once the 20 amended complaint is filed and served, any previous complaint no longer serves any 21 function in the case. *Lacey v. Maricopa Cnty.*, 693 F.3d 896, 927 (9th Cir.

2012). 22 III. CONCLUSION 23 In accordance with the above, IT IS ORDERED that: 24 1. Plaintiff's motion to proceed in forma pauperis (ECF No. 3) is GRANTED; 25 2. Plaintiff's Complaint (ECF No. 1) is DISMISSED with leave to amend; and 26 3. Plaintiff shall have 30 days from the date of this order to file an amended 27 complaint that complies with the instructions provided above.

If Plaintiff 28 fails to timely comply with this order, the undersigned may recommend that 1 this
action be dismissed. 2 3 || Dated: December 1, 2025 4 Cha Spo CHI S00 KIM 5 UNITED
STATES MAGISTRATE JUDGE 6 || 5, shab.2813.25 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21
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