

**APPENDIX A**

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

ARTHUR LOPEZ, Plaintiff-Appellant,

v.

UNITED STATES OF AMERICA, Defendant-  
Appellee.

No. 20-55390

D.C. No. 8:20-cv-00593-SVW-KES

Central District of California,  
Santa Ana

ORDER

FILED MAY 26, 2021  
Molly C. Dwyer, Clerk  
U.S. COURT OF  
APPEALS

Before: McKEOWN, CALLAHAN, and BRESS,  
Circuit Judges.

Lopez's motion for reconsideration (Docket Entry  
No. 13) is denied. See 9th Cir. R. 27-10.

No further filings will be entertained in this closed  
case.

**APPENDIX B**

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**ARTHUR LOPEZ**, Plaintiff-Appellant,

v.

**UNITED STATES OF AMERICA**,  
Defendant-Appellee.

**No. 20-55390**

D.C. No. 8:20-cv-00593-SVW-KES  
Central District of California,  
Santa Ana

**ORDER**

**FILED JAN.25, 2021**  
**Molly C. Dwyer, Clerk**  
**U.S. Court of Appeals**

Before: McKEOWN, CALLAHAN, and BRESS,  
Circuit Judges.

The district court denied appellant leave to proceed in forma pauperis because it found the action frivolous. *See* 28 U.S.C. § 1915(a). On April 15, 2020, this court ordered appellant to explain in

writing why this appeal should not be dismissed as frivolous. *See* 28 U.S.C. § 1915(e)(2) (court shall dismiss case at any time, if court determines it is frivolous or malicious).

Upon a review of the record and the response to the court's April 15, 2020 order, we conclude this appeal is frivolous. We therefore deny appellant's motion to proceed in forma pauperis (Docket Entry No. 7) and dismiss this appeal as frivolous, pursuant to 28 U.S.C. § 1915(e)(2).

All other pending motions are denied as moot.

DISMISSED.

**APPENDIX C**

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

ARTHUR LOPEZ,  
PLAINTIFF(S)

Case 8:20-cv-00593-  
SVW-KES

v.

**ORDER RE  
REQUEST TO  
PROCEED  
*IN FORMA  
PAUPERIS***

UNITED STATES OF  
AMERICA,  
DEFENDANT(S)

**IT IS RECOMMENDED** that the Request to Proceed *In Forma Pauperis* be **DENIED** for the following reason(s):

X-Legally and/or factually patently frivolous

Date: March 26, 2020

/s/ - Karen E. Scott, United States Magistrate  
Judge

**IT IS ORDERED** that the Request to Proceed *In Forma Pauperis* is hereby:

X-Denied (see comments above). **IT IS FURTHER ORDERED** that:

XThis case is hereby **DISMISSED** immediately.

Date: April 2, 2020

United States District Judge, STEPHEN V. WILSON

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ARTHUR LOPEZ,  
Plaintiff,

v.

UNITED STATES OF  
AMERICA,  
Defendant.

Case No. 8:20-cv-  
00593-SVW-KES

ATTACHMENT TO  
ORDER  
RECOMMENDING  
DENIAL OF  
REQUEST TO  
PROCEED IN  
FORMA PAUPERIS

## I.

### INTRODUCTION

On March 25, 2020, Arthur Lopez ("Plaintiff") filed pro se a civil complaint accompanied by an application to proceed in forma pauperis ("IFP"). (Dkt. 1 ["Complaint"].) The IFP application should be denied and the action dismissed without leave to amend because it fails to state a claim and is frivolous. 28 U.S.C. § 1915(e)(2).

## II.

### DISCUSSION

The Complaint seeks \$1 billion from the United States of America. (Compl. at 21.) Each of the alleged causes of action fails for the reasons explained below:

**A. Federal Tort Claims Act ("FTCA")**

Plaintiff alleges that Congress was "grossly negligent" for failing to incorporate a clause creating a private right of action in the Economic Espionage Act of 1996, an oversight that prevented him from winning prior lawsuits. (Compl. at 3.) Congress has immunity for legislative acts. See generally FDIC v. Johnson, 35 F. Supp. 3d. 1286, 1295-96 (D. Nev. 2014) ("The FTCA waives sovereign immunity for the negligent or wrongful acts of Government employees. ... The FTCA is subject to several exceptions. ... One of these exceptions, the discretionary function exception, protects federal agencies from '[a]ny claim based upon ... performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency....' 28 U.S.C. § 2680. ... The purpose of this exception is to prevent judicial second-guessing of legislative and administrative decisions through the medium of an action in tort."); see, e.g., Cato v. United States, 70 F.3d 1103, 1110 (9th Cir. 1995) (finding that African-American could not sue the USA for, among other things, failing to pass legislation to prevent racially discriminatory capital sentencing, because legislative conduct is a discretionary function for purposes of the FTCA and individual members of Congress have immunity for these types of claims).

**B. Antitrust Violation of the Sherman Act, the Clayton Act, and the California Cartwright Act**

Plaintiff alleges that the USA "barred Plaintiff and his financial institution from participating" in federal loan programs, causing Plaintiff's auto-finance company to fail. (Compl. at 9.) The USA has

sovereign immunity from anti-trust claims for monetary damages. See U.S. Postal Serv. v. Flamingo Indus. (USA) Ltd., 540 U.S. 736, 744-46 (2004) (holding that the United States is not a "person" under the Sherman Act); McMillan v. Dep't of Interior, 907 F. Supp. 322, 326 (D. Nev. 1995) (holding that the Sherman Act and the Clayton Act do not waive sovereign immunity of the USA). Moreover, Plaintiff fails to allege facts showing how the determination that he was ineligible for a Small Business Administration loan violated the Sherman Act.

**C. Deprivation of Civil Rights Under 42 U.S.C. § 1983**

Plaintiff alleges that the USA discriminated against him based on his male gender, Mexican heritage, and Catholic religion, by failing to act on numerous complaints Plaintiff sent to the federal Department of Justice complaining about mistreatment by local police agencies. (Compl. at 11.) Plaintiff also alleges that former FBI Director James Comey sabotaged Plaintiff's ability to earn a living. (Id. at 12.)

The federal government cannot be a § 1983 defendant. See Jachetta v. United States, 653 F.3d 898, 908 (9th Cir. 2011) (holding that the United States and other federal government entities are not "persons" within the meaning of § 1983). Even if the Court were to liberally construe this as a claim under Bivens v Six Unknown Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971), the United States is not a proper defendant.



See F.D.I.C. v. Meyer, 510 U.S. 471, 486 (1994) ("An extension of Bivens to agencies of the Federal Government is not supported by the logic of Bivens itself."). Most importantly, the factual allegation in this claim are fanciful and implausible. See Neitzke v. Williams, 490 U.S. 319, 325 (1989) (noting that section "1915(d)'s term 'frivolous,' when applied to a complaint, embraces not only the inarguable legal conclusion, but also the fanciful factual allegation").

**D. Americans with Disabilities Act ("ADA")**

Plaintiff alleges that the USA should have accommodated Plaintiff's disability by allowing him to register complaints over the phone. (Compl. at 17.) Plaintiff fails to allege facts showing why his alleged disabilities prevented him from filing written complaints. Indeed, Plaintiff has filed at least 25 lawsuits in this Court since 2013. See Lopez v. HSBC Bank USA, N.A., No. 8:19-cv-01816-JFW-KES (C.D. Cal Jan 17, 2020) (order to show cause why Plaintiff should not be declared a vexatious litigant).

Also, Plaintiff alleges that he was wrongfully denied Social Security disability benefits. (Compl. at 17.) This allegation does not state an ADA violation.

**E. Fraud**

Plaintiff alleges that he is the victim of ongoing fraud and conspiracy. (Compl. at 18.) Plaintiff fails to allege the elements of a fraud claim or address sovereign immunity.

## APPENDIX Z

### 11<sup>th</sup> MENU CHANGE OF COMMAND

31 JULY 2015 | 1<sup>st</sup> Lt. Colleen McFadden 11<sup>th</sup>  
Marine Expeditionary Unit

PRINT

SHARE

MARINE CORPS BASE CAMP PENDLETON, Calif.

Col Matthew G Trollinger, commanding officer of the 11<sup>th</sup> Marine Expeditionary Unit, relinquished his command of the MEU in the ceremonial passing of the colors to Col. Clay C. Tipton as part of a change of command ceremony here July 17.

As part of a longstanding tradition in the Marine Corps, a change of command ceremony is conducted to formally transfer authority and responsibility from one command to the next. ....