[10] We hold that the phrasing of this additional instruction was not erroneous and did not effectively relieve the government of its burden of proving that Dearing's actions were willful. The "intent to defraud" element is common to the federal fraud statutes. We have repeatedly held that the intent to defraud may be proven through reckless indifference to the truth or falsity of statements. *United States v. Munoz,* 233 F.3d 1117, 1136 (9th Cir.2000) (mail fraud); *United States v. Ely,* 142 F.3d 1113, 1121 (9th Cir.1997) (bank fraud). We have also upheld a reckless indifference instruction in connection with securities fraud, which, like section 1347, requires that the defendant acted willfully: we explained that "a defendant could 'willfully' violate § 78ff by willfully acting with reckless indifference to the truth of statements made in the course of the fraud." *United States v. Tarallo,* 380 F.3d 1174, 1189 & n. 5 (9th Cir.2004).[2] More importantly, the "reckless indifference" instruction that Dearing challenges was tethered to the "specific intent to defraud" element, which the government was required to prove *in addition to* the first element. Therefore its inclusion did not negate the separate instruction that to convict, the jury had to find that Dearing acted "knowingly and willfully."

[11] "In reviewing jury instructions, the relevant inquiry is whether the instructions as a whole are adequate to guide the jury's deliberation." *Munoz,* 233 F.3d at 1130. Because we have previously held that the government may prove willfulness by showing that the defendant acted with reckless indifference to the truth or falsity of a statement, and because the "reckless indifference" instruction here did not negate the separate "knowing and willfully" instruction, we find no error. Reviewed as a whole, the instructions adequately conveyed that conviction required the jury to find that Dearing acted "voluntarily and purposely" with "bad purpose either to disobey or disregard the law, and not through ignorance, mistake, or accident."

Arthur Dearing's conviction is therefore

AFFIRMED.

Steve SANDERS, Individually and as Class Representative, Plaintiff–Appellant,

v.

Edmund G. BROWN Jr.,* in his official capacity as Attorney General of the State of California; Philip Morris USA, Inc.; R.J. Opinion Reynolds Tobacco Company; Brown & Williamson Tobacco Corp.; Lorillard Tobacco Company, Defendants–Appellees.

No. 05–15676.

United States Court of Appeals, Ninth Circuit.

Argued and Submitted Feb. 15, 2007.

Filed Sept. 26, 2007.

Background: Consumer filed class action alleging that master settlement agreement

2. Similarly, the Sixth Circuit in *Davis* noted that the judge instructed the jury that "false or fraudulent pretenses, representations, or premises" under Section 1347 may be established by material false statements that "were either known to be untrue when made or made with reckless indifference to their truth." *Davis,* 490 F.3d at 547.

* Edmund G. Brown Jr. is substituted for his predecessor, Bill Lockyer, as Attorney General of the State of California, pursuant to Fed. R.App. P. 43(c)(2).

The defendants filed motions to dismiss, arguing, among other things, that they are immune to antitrust liability under either (1) the *Noerr–Pennington* immunity doctrine, described in *E. R.R. Presidents Conf. v. Noerr Motor Freight, Inc.,* 365 U.S. 127, 135–145, 81 S.Ct. 523, 5 L.Ed.2d 464 (1961), and *United Mine Workers of America v. Pennington,* 381 U.S. 657, 669–70, 85 S.Ct. 1585, 14 L.Ed.2d 626 (1965); or (2) the "state action" immunity doctrine that originated in *Parker v. Brown,* 317 U.S. 341, 350–52, 63 S.Ct. 307, 87 L.Ed. 315 (1943).

The district court granted the motions to dismiss. *See Sanders,* 365 F.Supp.2d at 1105. The district court held that the Sherman Act did not preempt the MSA implementing statutes because those statutes do not authorize any *per se* illegal activity. *See id.* at 1101. The district court also held that the state action immunity doctrine protected the defendants from suit because the MSA and its implementing statutes were formed by sovereign state acts that cannot be challenged under federal antitrust law. *See id.* at 1098–1101, 1103–05. The district court further held that the defendants were entitled to *Noerr–Pennington* immunity because their acts of negotiating and entering into the MSA constituted protected speech. *See id.* at 1101–03. Finally, the district court held that Sanders's state law claims failed because the defendants were immune to those claims as well. *See id.* at 1104–05.

III. Analysis

A dismissal under Rule 12(b)(6) is reviewed *de novo. See Knievel v. ESPN,* 393 F.3d 1068, 1072 (9th Cir.2005). All allegations of fact are taken as true. *See id.* Conclusory allegations and unreasonable inferences, however, are insufficient to defeat a motion to dismiss. *See Cholla Ready Mix, Inc. v. Civish,* 382 F.3d 969, 973 (9th Cir.2004); *Warren v. Fox Family Worldwide, Inc.,* 328 F.3d 1136, 1139 (9th Cir.2003).

[1] Review is generally limited to the contents of the complaint, but a court can consider a document on which the complaint relies if the document is central to the plaintiff's claim, and no party questions the authenticity of the document. *See Warren,* 328 F.3d at 1141 n. 5. We therefore can analyze the MSA, which is obviously central to the claim, in evaluating the strength of Sanders's allegations.

A. Preemption

[2, 3] Sanders argues that California's Qualifying Act and Contraband Amendment are preempted by Section 1 of the Sherman Act, which states that "[e]very contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce ... is declared to be illegal." 15 U.S.C. § 1. To be preempted by this Act, a state statute must be in "irreconcilable" conflict with the federal antitrust regulatory scheme. *Rice v. Norman Williams Co.,* 458 U.S. 654, 659, 102 S.Ct. 3294, 73 L.Ed.2d 1042 (1982). The only way such a conflict can exist, according to the Supreme Court, is if the state statute "mandates or authorizes conduct that necessarily constitutes a violation of the antitrust laws in all cases, or if it places irresistible pressure on a private party" to violate those laws. *Fisher v. City of Berkeley,* 475 U.S. 260, 265, 106 S.Ct. 1045, 89 L.Ed.2d 206 (1986) (quoting *Rice,* 458 U.S. at 661, 102 S.Ct. 3294) (internal quotation marks omitted). A conflict that is "hypothetical or potential" is "insufficient" to warrant preemption. *Rice,* 458 U.S. at 659, 102 S.Ct. 3294. Thus, a state statute is only preempted by the Sherman Act "when the conduct contemplated by the statute is in all cases a