

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 16-4451 FMO (FFMx)	Date	June 12, 2017
Title	Andres Gomez v. Cicceros Pizza, Inc., et al.		

Present: The Honorable	Fernando M. Olguin, United States District Judge		
Vanessa Figueroa	None Present		
Deputy Clerk	Court Reporter / Recorder		
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:		
None Present	None Present		

Proceedings: (In Chambers) Order to Show Cause Re: Lack of Prosecution

Pursuant to the Court's Order of November 29, 2016 (Dkt. 17), the court granted defendants' motion to dismiss, and plaintiff was "granted until December 15, 2016, to file a first amended complaint[.]" (See id. at 2). Plaintiff was "cautioned that failure to timely file a First Amended Complaint may result in this action being dismissed without prejudice for failure to prosecute and/or failure to comply with a court order." (See id. at 3). As of the filing date of this Order, a first amended complaint has not been filed. (See, generally, Dkt.). Even though plaintiff's First Amended Complaint was due nearly six months ago, the court will give plaintiff one final opportunity to file a First Amended Complaint.

In addition, plaintiff should note that the court finds merit to defendants' contention that plaintiff lacks jurisdiction because defendants "hired [a] licensed CASp inspector [] to perform a CASp inspection of the entire shopping center where [defendants' restaurant] is located[.]" (Dkt. 13-1, Motion to Dismiss at 3). Defendants "immediately began efforts to remediate all ADA non-compliance [] and in fact completed those repairs." (Id.). "As a result, the parking area contained clearly marked signage and parking, as well as proper access ramps for disabled persons." (Id.).

Based on the foregoing IT IS ORDERED THAT:

1. If plaintiff still wishes to pursue this action, he is granted until **June 16, 2017**, to file a First Amended Complaint attempting to cure the defects identified above as well as the other defects outlined in defendants' motion to dismiss.

2. The first amended complaint must be labeled "First Amended Complaint," filed in compliance with Local Rule 3-2 and contain the case number assigned to the case, i.e., Case No. CV 16-4451 FMO (FFMx). In addition, plaintiff is informed that the court cannot refer to a prior pleading in order to make his First Amended Complaint complete. Local Rule 15-2 requires that an amended pleading be complete in and of itself without reference to any prior pleading. This is because, as a general rule, an amended pleading supersedes the original pleading. See Ramirez v. Cnty. of San Bernardino, 806 F.3d 1002, 1008 (9th Cir. 2015) ("It is well-established in our circuit that an amended complaint supersedes the original, the latter being treated thereafter as non-existent. In other words, 'the original pleading no longer performs any function[.]'")

