

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

EDWARD J. MULLINS,

CASE NO. 1:07-cv-00108-LJO-DLB (PC)

Plaintiff,

ORDER VACATING FINDINGS AND
RECOMMENDATIONS, ORDER ADOPTING
FINDINGS AND RECOMMENDATIONS,
AND DISCOVERY AND SCHEDULING
ORDER

v.

R. WENCIKER, et al.,

Defendants.

(Docs. 49, 59, 64)

Plaintiff, Edward J. Mullins, (“plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed an incomplete copy of his complaint originally on July 18, 2006 in the Central District of California. Plaintiff filed his complete complaint on July 24, 2006. Plaintiff then filed a motion to amend his complaint. On August 14, 2006, the Court granted Plaintiff’s motion, dismissed Plaintiff’s original complaint, and ordered Plaintiff to file a first amended complaint. Plaintiff filed a first amended complaint on August 25, 2006.

On January 19, 2007, this action was transferred to the Eastern District of California. On April 4, 2008, this Court filed its screening order of Plaintiff’s original complaint. On October 6, 2008, Plaintiff filed a motion to amend his complaint (Doc. 73). Plaintiff indicated that the Court had not screened his first amended complaint, but his original complaint that had previously been dismissed. On October 30, 2008, the Court issued an order granting Plaintiff the election to proceed with his original and screened complaint filed July 24, 2006, or with his first amended complaint filed August 25, 2006, or to file a second amended complaint within thirty days. (Doc. 77).

1 Plaintiff has elected to file a second amended complaint.¹ Accordingly, the Court's previous
2 Findings and Recommendations following the screening of plaintiff's original complaint, as well as
3 the order adopting the findings and recommendations are HEREBY ORDERED VACATED.
4 (Docs.49, 59). The Discovery and Scheduling Order is also vacated. (Doc.64). The Court shall
5 issue a revised Scheduling and Discovery Order is due course.
6 IT IS SO ORDERED.

7 **Dated: April 16, 2009**

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

¹ By separate order, the Court has screened Plaintiff's second amended complaint. 28 U.S.C. § 1915A(a).