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6	IN THE UNITED STATES DISTRICT COURT FOR THE
7	EASTERN DISTRICT OF CALIFORNIA
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9	KRISTA JONES,) No. CV-F-07-1628 OWW/TAG
10) MEMORANDUM DECISION AND) ORDER DENYING DEFENDANTS'
11	Plaintiff,) MOTION TO STRIKE FOURTH) AMENDED COMPLAINT AS MOOT
12	vs.) (Docs. 50 & 51), VACATING) ORAL ARGUMENT SET FOR
13) JANUARY 12, 2009, AND KERN HIGH SCHOOL DISTRICT,) DIRECTING PLAINTIFF TO FILE
14	et al.,) FIFTH AMENDED COMPLAINT
15) Defendants.)
16)
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18	By Memorandum Decision and Order filed on August 14, 2008,
19	Plaintiff was ordered to file a Fourth Amended Complaint. The
20	August 14, 2008 Order specifically ruled:
21	The TAC is 79 pages long and comprised of 216 paragraphs, which include citations to
22	various legal authority. Because Plaintiff must file a Fourth Amended Complaint,
23	Plaintiff is ordered to delete all cases [sic] citations and allegations discussing
24	cases from the Fourth Amended Complaint. These allegations essentially constitute
25	legal argument and/or legal conclusions and have no place in a complaint. Further, they
26	make reading and analyzing the pleading very
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difficult and cannot be admitted or denied by the Defendants.

The Fourth Amended Complaint filed by Plaintiff on September 8, 2008 continues to include numerous citations to legal authority.

Defendants move to strike these portions of the Fourth Amended Complaint delineated n Defendants' Exhibit A to the motion to strike because of Plaintiff's failure to comply with the August 14, 2008 Order and direct Plaintiff to file a Fifth Amended Complaint in compliance with the Court's Order.

In responding to Defendants' motion to strike, Plaintiff does not oppose the motion. Plaintiff acknowledges that the Fourth Amended Complaint did not comply with the Court's Order and asserts that the failure to do so was unintentional and inadvertent. Plaintiff attaches as an exhibit a copy of the proposed Fifth Amended Complaint which deletes the legal authorities delineated in Defendants' motion to strike. Defendants agree that the Fifth Amended Complaint be filed.

Defendants' motion to strike is DENIED as moot. Oral argument on the motion to strike set for January 12, 2009 is VACATED. Plaintiff is ordered to file the proposed Fifth Amended Complaint within ten (10) days of the filing date of this Memorandum Decision and Order.

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IT IS SO ORDERED.

Dated: January 6, 2009

/s/ Oliver W. Wanger UNITED STATES DISTRICT JUDGE

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