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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

EDWARD DEMERSON,

CASE NO. 1:08-cv-00144-LJO-SMS PC

Plaintiff,

ORDER STRIKING PARTIAL AMENDMENT  
FROM RECORD, AND REQUIRING  
PLAINTIFF TO FILE THIRD AMENDED  
COMPLAINT WITHIN THIRTY DAYS OR  
SECOND AMENDED COMPLAINT WILL BE  
DEEMED THE OPERATIVE PLEADING

v.

JEANNE S. WOODFORD, et al.,

Defendants.

(Doc. 40)

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Plaintiff Edward Demerson, a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983 on January 29, 2008. The Court dismissed Plaintiff’s complaint, with leave to amend, on September 22, 2008. Plaintiff filed an amended complaint on October 27, 2008, and on February 26, 2009, the Court ordered Plaintiff to effect service of the amended complaint within one-hundred twenty days. On June 24, 2009, Plaintiff filed a second amended complaint, and on July 6, 2009, Plaintiff filed a partial amendment to his second amended complaint.<sup>1</sup>

Pleadings must be complete within themselves. Forsyth v. Humana, Inc., 114 F.3d 1467, 1474 (9th Cir. 1997); King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987); Local Rule 220. Plaintiff may not add to his second amended complaint by submitting a separate amendment, and the July 6 partial amendment shall be stricken from the record. Id.

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<sup>1</sup> Plaintiff erroneously titled his second amended complaint a third amended complaint. Plaintiff’s description of the pleading as a third amended complaint is disregarded.

1 Plaintiff has thirty days to file a third amended complaint that is complete within itself  
2 without reference to any other pleading. If Plaintiff fails to file a third amended complaint within  
3 thirty days, his second amended complaint will be deemed the operative pleading and will be  
4 screened by the Court.<sup>2</sup> 28 U.S.C. § 1915A.

5 Accordingly, it is HEREBY ORDERED that:

- 6 1. Plaintiff's partial amendment to his second amended complaint, filed July 6, 2009,  
7 is STRICKEN from the record;
- 8 2. Plaintiff has **thirty (30) days** from the date of service of this order within which to  
9 file a third amended complaint that is complete within itself; and
- 10 3. If Plaintiff fails to file a third amended complaint within thirty days, his second  
11 amended complaint will be treated as the operative pleading and will be screened by  
12 the Court.

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14 IT IS SO ORDERED.

15 **Dated: December 15, 2009**

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

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27 <sup>2</sup> Plaintiff has exercised his right to amend once as a matter of course, and may not amend without leave of  
28 court. Fed. R. Civ. P. 15(a).