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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MATTHEW B. CRAMER,)	1:08-cv-01693-OWW-SMS
)	
Plaintiff,)	ORDER DENYING PLAINTIFF'S REQUEST
)	FOR LEAVE TO FILE A FIRST AMENDED
)	COMPLAINT AS MOOT (Doc. 16)
v.)	
)	ORDER DENYING PLAINTIFF'S MOTION
TARGET CORPORATION, et al.,)	FOR DISCOVERY (Doc. 16)
)	
Defendants.)	ORDER DENYING PLAINTIFF'S REQUEST
)	TO FILE ADDITIONAL OBJECTIONS
)	(DOC. 16)

Plaintiff, a state prisoner, is proceeding pro se and in forma pauperis with an action for damages and other relief concerning alleged civil rights violations. The matter was referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b) and Local Rules 72-302 and 72-304.

On June 8, 2009, the Court adopted findings and recommendations concerning the screening of Plaintiff's complaint and directed service on three Defendants. Service documents were forwarded to the Marshal on the same date. Thus, as far as the Court is informed, service is pending.

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1 I. Denial as Moot of Request for Leave to Amend

2 On June 19, 2009, Plaintiff filed what the Court understands
3 to be in part a request for leave to file an amendment to the
4 complaint to name a specified Target store manager as a Doe
5 defendant. The request IS DENIED as moot because pursuant to the
6 pertinent Federal Rules of Civil Procedure, Plaintiff may amend
7 the complaint once without the Court's permission as long as it
8 is done before a response to the complaint has been filed.

9 However, Plaintiff IS REMINDED that a complaint must contain
10 a short and plain statement as required by Fed. R. Civ. P.
11 8(a)(2). Although the Federal Rules adopt a flexible pleading
12 policy, a complaint must give fair notice and state the elements
13 of the claim plainly and succinctly. Jones v. Community Redev.
14 Agency, 733 F.2d 646, 649 (9th Cir. 1984). Plaintiff must allege
15 with at least some degree of particularity overt acts which the
16 defendants engaged in that support Plaintiff's claim. Id.

17 An amended complaint supercedes the original complaint,
18 Forsyth v. Humana, Inc., 114 F.3d 1467, 1474 (9th Cir. 1997);
19 King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987), and must be
20 "complete in itself without reference to the prior or superceded
21 pleading," Local Rule 15-220. Plaintiff is warned that "[a]ll
22 causes of action alleged in an original complaint which are not
23 alleged in an amended complaint are waived." King, 814 F.2d at
24 567 (citing to London v. Coopers & Lybrand, 644 F.2d 811, 814
25 (9th Cir. 1981)); accord Forsyth, 114 F.3d at 1474.

26 Further, Plaintiff is informed that the inclusion of
27 evidence in a complaint is generally not necessary. Thus,
28 although Plaintiff's request to amend the complaint to add to it

1 evidence he has discovered about a theft ring involving Target
2 and people from Oregon is moot, the Court WARNS Plaintiff that
3 the Court is not a repository for evidence; evidence is
4 appropriately submitted when a matter involving the merits of the
5 issues in the case are before the Court, and this preliminary
6 state of the action does not constitute such a stage of the
7 proceedings.

8 II. Motion for Discovery

9 _____Plaintiff requests the Court to issue orders to persons who
10 were involved in the events forming the basis of the complaint so
11 that Plaintiff may discover the name of the supervisor at the
12 time of the incidents that form the basis of the complaint.

13 Plaintiff's request for discovery IS DENIED as premature.
14 The case has yet to be scheduled or even served.

15 III. Plaintiff's Request to Submit Additional Objections to
16 the Magistrate Judge's Findings and Recommendations

17 Insofar as Plaintiff seeks to supplement his objections to
18 the findings and recommendations made by the Magistrate Judge
19 during the screening process, Plaintiff's request must be denied
20 because the District Court has already considered and has adopted
21 the findings and recommendations, and thus the submission of
22 objections is untimely.

23 The ultimate decision concerning screening a complaint is
24 made by the District Judge. If Plaintiff desires to submit
25 additional material concerning the decision made by the Court
26 concerning screening his complaint, then Plaintiff should proceed

27 /////

28 //////////

1 to seek reconsideration of the decision from the District Judge,
2 as distinct from the Magistrate Judge.

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4 IT IS SO ORDERED.

5 **Dated: July 17, 2009**

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE

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