

1 in the second amended complaint and thus in violation of Federal Rule of Civil Procedure
2 20(a)(2). The undersigned denied the motion to amend as futile.

3 Having re-examined the record and Plaintiff's objections, the undersigned agrees with
4 Plaintiff.² Plaintiff's allegations all occurred in 2009 against the named Defendants, namely
5 February 9, April 6, and July 13. The claims concerned his removal from single cell status,
6 placement in a cell without grab bars, failure to provide medical treatment for his back, and
7 failure to provide medical treatment for his right knee. Plaintiff's proposed pleadings involve
8 claims against doctor DiLeo for denying him pain medication on February 20, 2010.

9 Plaintiff's proposed pleadings allege that doctor DiLeo took Plaintiff off his pain
10 medication on February 20, 2010. Pl.'s Mot 2, Doc. 42. Plaintiff was examined on February 26,
11 2010 for a medical emergency, at which point doctor DiLeo put Plaintiff back on the pain
12 medication. Plaintiff further alleges that doctor DiLeo delayed in providing a specialist to
13 examine Plaintiff's lower back, and prolonged the follow-up care for Plaintiff's knee and back.

14 Under Federal Rule of Civil Procedure 20(a)(2), "[p]ersons . . . may be joined in one
15 action as defendants if: (A) any right to relief is asserted against them jointly, severally, or in the
16 alternative with respect to or arising out of the same transaction, occurrence, or series of
17 transaction or occurrences; and (B) any question of law or fact common to all defendants will
18 arise in the action." While Plaintiff's proposed claims against doctor DiLeo arose in 2010, and
19 not 2009 like the Defendants, it does arise from the same transaction or occurrence pursuant to
20 Federal Rule of Civil Procedure 20(a)(2). Plaintiff's proposed claims concern medical care
21 regarding his lower back and knee, which were found to be cognizable as against Defendant
22 Lopez. Regarding amendments of pleadings, "[t]he court should freely give leave when justice
23 so requires." Fed. R. Civ. P. 15(a)(2). Thus, the Court will grant Plaintiff leave to amend.

24 ///

25 ///

27
28 ²The Court has the power to review its previous orders prior to final judgment. *See* Fed.
R. Civ. P. 54(b).

1 **II. Local Rule 220**

2 Under Local Rule 220,

3 every pleading to which an amendment or supplement is permitted as a matter of
4 right or has been allowed by court order shall be retyped and filed so that it is
5 complete in itself without reference to the prior or superseded pleading. No
6 pleading shall be deemed amended or supplemented until this Rule has been
7 complied with. All changed pleadings shall contain copies of all exhibits referred
8 to in the changed pleading.

9 Plaintiff may not amend his pleadings in a piecemeal fashion. Plaintiff is required to file
10 a third amended complaint which is complete in itself, without reference to the prior or
11 superseded pleading. An amended complaint supersedes the preceding complaint, *Forsyth v.*
12 *Humana, Inc.*, 114 F.3d 1467, 1474 (9th Cir. 1997); *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir.
13 1987). Plaintiff is warned that “[a]ll causes of action alleged in an original complaint which are
14 not alleged in an amended complaint are waived.” *King*, 814 F.2d at 567 (citing to *London v.*
15 *Coopers & Lybrand*, 644 F.2d 811, 814 (9th Cir. 1981)); *accord Forsyth*, 114 F.3d at 1474.
16 Once Plaintiff files his third amended complaint, the Court will re-screen it pursuant to 28 U.S.C.
17 § 1915A. The Court will grant Plaintiff thirty (30) days in which to file his third amended
18 complaint. Failure to timely file or otherwise comply may result in waiver of the opportunity to
19 file a third amended complaint.

20 **III. Conclusion And Order**

21 Based on the foregoing, it is HEREBY ORDERED that:

- 22 1. Plaintiff is GRANTED leave to file a third amended complaint within thirty (30)
23 days from the date of service of this order;
- 24 2. The Court will re-screen Plaintiff’s third amended complaint pursuant to 28
25 U.S.C. § 1915A; and
- 26 3. Failure to timely file or otherwise comply with this order may result in waiver of
27 the opportunity to file a third amended complaint.

28 IT IS SO ORDERED.

Dated: August 10, 2011

/s/ Dennis L. Beck

UNITED STATES MAGISTRATE JUDGE

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