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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 CHRISTOPHER SIMMONS,

12 Plaintiff,

13 vs.

14 JONATHAN AKANNO, et al.,

15 Defendants.  
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1:10-cv-00553-AWI-GSA-PC

ORDER STRIKING SECOND  
AMENDED COMPLAINT AS  
IMPROPERLY FILED  
(Doc. 22.)

ORDER DENYING DEFENDANT  
CDCR'S REQUEST FOR SCREENING  
ORDER AS MOOT  
(Doc 23.)

THIRTY-DAY DEADLINE FOR  
PLAINTIFF TO PROPERLY FILE A  
SECOND AMENDED COMPLAINT

21 This is a civil action filed by Christopher Simmons ("Plaintiff"), a state prisoner  
22 proceeding with counsel. This action was initiated by civil complaint filed by Plaintiff in the  
23 Kern County Superior Court on December 17, 2009 (Case #S-1500-CV-269232, DRL). On  
24 March 29, 2010, defendant California Department of Corrections and Rehabilitation (CDCR)  
25 ("Defendant") removed the case to federal court by filing a Notice of Removal of Action  
26 pursuant to 28 U.S.C. § 1441(a). (Doc. 1.) On March 8, 2012, Plaintiff filed the First  
27 Amended Complaint. (Doc. 13.) On July 18, 2013, the court dismissed the First Amended  
28 Complaint, with leave to amend. (Doc. 19.)

1 On October 3, 2013, Attorney Scottlynn J. Hubbard IV filed a Second Amended  
2 Complaint on Plaintiff's behalf. (Doc. 22.) On October 7, 2013, Defendant CDCR requested  
3 the court to screen Plaintiff's Second Amended Complaint under 28 U.S.C. § 1915A and grant  
4 Defendant an extension of time in which to file a responsive pleading. (Doc. 23.) On May 8,  
5 2014, the court issued an order denying the substitution of Attorney Scottlynn J. Hubbard IV as  
6 counsel for Plaintiff, on procedural grounds. (Doc. 25.)

7 Because Attorney Hubbard filed the Second Amended Complaint on Plaintiff's behalf  
8 without approval of a substitution of attorneys by the court, the Second Amended Complaint  
9 was improperly filed. Therefore, the Second Amended Complaint shall be stricken from the  
10 record, and Defendant's request for the court to screen the Second Amended Complaint shall  
11 be denied as moot.

12 Accordingly, IT IS HEREBY ORDERED that:

13 1. The Second Amended Complaint, filed on October 3, 2013, is STRICKEN from  
14 the record;

15 2. Defendants' Request for the court to screen the Second Amended Complaint,  
16 filed on October 7, 2013, is DENIED as moot; and

17 3. Within thirty days from the date of service of this order, Plaintiff is required to  
18 properly file a Second Amended Complaint, pursuant to the court's order of July 18, 2013.

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20 IT IS SO ORDERED.

21 Dated: May 9, 2014

/s/ Gary S. Austin  
22 UNITED STATES MAGISTRATE JUDGE  
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