



1 indicate that the PLRA requires the Court to screen Plaintiff’s complaint “as soon as practicable after  
2 docketing.” (Doc. 23 at 2)(citing 28 U.S.C. § 1915A(a). The Court is well aware of its obligation to  
3 screen Plaintiff’s amended complaint under the PLRA, as demonstrated by its previous screening  
4 orders in this case. (Docs. 8 and 14). The Court will screen Plaintiff’s amended complaint in due  
5 course.

6 On two separate occasions, the Court advised Defendants that they need not file a responsive  
7 pleading until after – and only if – the Court finds that Plaintiff states a cognizable claim. (Docs. 5,  
8 13). The Court presumes counsel is being overly cautious in repeatedly filing motions despite the  
9 need for the Court to screen any amended complaint. However, given the Court’s prior orders, the  
10 present filing is clearly unwarranted and unnecessary and an errant effort which wastes this Court’s  
11 limited resources in having to respond to it. Therefore, Defendants’ request for a screening order is  
12 **DISREGARDED.**

13 **II. Plaintiff’s Motion to Withdraw the Second Amended Complaint**

14 Plaintiff submits a letter to the Court requesting that the Court accept the “revised second  
15 amended complaint” (Doc. 25) in lieu of the previously filed second amended complaint (Doc. 21).  
16 (Doc. 24 at 2). Plaintiff reports that on June 18, 2013, he “inadvertently mailed an incomplete draft”  
17 of his second amended complaint to the Court. Id. Plaintiff seemingly noticed his error and re-  
18 submitted the complaint on two days later. Id. While the present motion to withdraw was not filed  
19 with the Court until July 12, 2013, Plaintiff indicates that the United States Postal Service returned the  
20 June 20, 2013 filing to him on July 9, 2013 as undeliverable. Id. at 1. Plaintiff claims to have  
21 addressed the envelope to the Court in “the same exact way it had been previously sent” and thus  
22 could reasonably assume that it would arrive at the Court on time. (Doc. 24 at 1). Thus, it appears that  
23 Plaintiff exercised due diligence in seeking to correct his inadvertent filing.

24 Therefore, the Court **GRANTS** Plaintiff’s motion to withdraw the second amended complaint.  
25 (Doc. 23). The lodged corrected second amended complaint (Doc. 25) **SHALL BE CONSTRUED** as  
26 a “third amended complaint” and **SHALL** be the operative complaint in this matter.

27 **ORDER**

28 Accordingly, and for the aforementioned reasons, the Court **ORDERS** that:

