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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 JOHN EDWARD MITCHELL,

12 Plaintiff,

13 vs.

14 T. NORTON, et al.,

15 Defendants.  
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1:12-cv-00331-GSA-PC

ORDER GRANTING PLAINTIFF'S  
REQUEST  
(Doc. 11.)

ORDER STRIKING PLAINTIFF'S REQUEST  
FOR LEAVE TO AMEND, AND FIRST  
AMENDED COMPLAINT, BOTH FILED ON  
MAY 16, 2014  
(Docs. 9, 10.)

ORDER FOR PLAINTIFF TO FILE NEW  
FIRST AMENDED COMPLAINT  
PURSUANT TO COURT'S ORDER OF MAY  
9, 2014  
(Doc. 8.)

22 **I. BACKGROUND**

23 John Edward Mitchell ("Plaintiff") is a state prisoner proceeding pro se and in forma  
24 pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. On March 5, 2012, Plaintiff  
25 filed the Complaint commencing this action. (Doc. 1.)

26 On March 13, 2012, Plaintiff consented to Magistrate Judge jurisdiction in this action  
27 pursuant to 28 U.S.C. § 636(c), and no other parties have made an appearance. (Doc. 6.)  
28 Therefore, pursuant to Appendix A(k)(4) of the Local Rules of the Eastern District of

1 California, the undersigned shall conduct any and all proceedings in the case until such time as  
2 reassignment to a District Judge is required. Local Rule Appendix A(k)(3).

3 The court screened the Complaint under 28 U.S.C. § 1915A and issued an order on May  
4 9, 2014, dismissing the Complaint for failure to state a claim, with leave to amend within thirty  
5 days. (Doc. 8.) On May 16, 2014, Plaintiff filed a request to amend the complaint, together  
6 with a First Amended Complaint. (Docs. 9, 10.) On May 19, 2014, Plaintiff filed a request to  
7 dismiss the First Amended Complaint, without prejudice. (Doc. 11.)

8 **II. PLAINTIFF'S REQUEST**

9 Plaintiff explains that he submitted the First Amended Complaint to the court before he  
10 received the court's order of May 9, 2014, and he now seeks to file a new First Amended  
11 Complaint in compliance with the instructions in the court's order.

12 Under these facts, the court finds good cause to strike the First Amended Complaint and  
13 Plaintiff's request to amend, which were filed on May 16, 2014. When a document is stricken,  
14 it becomes a nullity and is not considered by the court for any purpose. Plaintiff may now file a  
15 new First Amended Complaint in compliance with the court's order of May 9, 2014.

16 **III. CONCLUSION**

17 Based on the foregoing, IT IS HEREBY ORDERED that:

- 18 1. Plaintiff's request filed on May 19, 2014, is GRANTED;
- 19 2. Plaintiff's request to amend the complaint, and the First Amended Complaint,  
20 both filed on May 16, 2014, are STRICKEN from the record; and
- 21 3. Plaintiff may now file a new First Amended Complaint in compliance with the  
22 court's order of May 9, 2014.

23  
24 IT IS SO ORDERED.

25 Dated: May 21, 2014

26 /s/ Gary S. Austin  
27 UNITED STATES MAGISTRATE JUDGE  
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