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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JOHNNY BRIONES,  
Plaintiff,

vs.

S. FRAUENHEIM, et al.,  
Defendants

Case No. 1:14 cv 00750 LJO GSA PC

ORDER DIRECTING PLAINTIFF TO FILE  
A SECOND AMENDED COMPLAINT  
WITHIN THIRTY DAYS

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

On September 26, 2014, an order was entered, dismissing the original complaint in this action and granting Plaintiff leave to file an amended complaint that corrected the deficiencies identified by the Court. On October 10, 2014, Plaintiff filed a first amended complaint. Plaintiff failed to sign his first amended complaint and on October 31, 2014, an order was entered, striking the first amended complaint and directing Plaintiff to file a second amended complaint within thirty days. Plaintiff failed to do so and on December 8, 2014, a recommendation of dismissal was entered on the ground that Plaintiff failed to file a second amended complaint. On January 29, 2015, Plaintiff filed a document styled as a notice. Plaintiff indicates that he would like to continue with this action. Plaintiff states that he has “met the federal court response for action.”

The Court will grant Plaintiff one more opportunity to file a second amended complaint that is signed, and is in compliance with the September 26, 2014, order. Should

1 Plaintiff failed to timely comply with this order, the recommendation of dismissal will be  
2 submitted to the District Court. Plaintiff is reminded that an amended complaint supercedes the  
3 original complaint, Forsyth v. Humana, Inc., 114 F.3d 1467, 1474 (9th Cir. 1997); King v.  
4 Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987), and must be “complete in itself without reference to  
5 the prior or superceded pleading,” Local Rule 15-220. Plaintiff is warned that “[a]ll causes of  
6 action alleged in an original complaint which are not alleged in an amended complaint are  
7 waived.” King, 814 F.2d at 567 (citing to London v. Coopers & Lybrand, 644 F.2d 811, 814  
8 (9th Cir. 1981)); accord Forsyth, 114 F.3d at 1474.

9 Accordingly, IT IS HEREBY ORDERED that Plaintiff is granted thirty days from the  
10 date of service of this order in which to file a second amended complaint. Plaintiff’s failure to  
11 do will result in submission of the recommendation of dismissal to the District Court.

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13 IT IS SO ORDERED.

14 Dated: January 30, 2015

15 /s/ Gary S. Austin

16 UNITED STATES MAGISTRATE JUDGE  
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