

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

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SCOTT K. RICKS,

Plaintiff,

v.

C. KAMENA, et al.,

Defendants.

Case No. 1:15-cv-00715-BAM (PC)

**ORDER GRANTING PLAINTIFF’S MOTION
TO AMEND PLEADING AND DIRECTING
PLAINTIFF TO FILE A FIRST AMENDED
COMPLAINT**

(ECF No. 24)

THIRTY (30) DAY DEADLINE

Plaintiff Scott K. Ricks (“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 action proceeds on Plaintiff’s claims under the Eighth Amendment against Defendant Kamena for the failure to protect him from his cellmate’s attack as he was attacked on January 13, 2014, and for deliberate indifference to his serious medical need from the attack. (ECF No. 18.)

On February 24, 2017, Plaintiff filed the instant motion to amend the complaint only as follows: “I would like compensatory damages in the amount of \$500,000.00, against each defendant, jointly and severally,” and, “I would like punitive damages in the amount of \$500,000.00, against each defendant.” (ECF No. 24, p. 2.) Defendant Kamena has not filed an opposition or statement of non-opposition, and the time to file a response has passed. Local Rule 230(l). Furthermore, pursuant to the Court’s Discovery and Scheduling Order, Plaintiff is within the time to file an amended pleading. (ECF No. 23, p. 1.)

Accordingly, Plaintiff’s request for leave to file an amended complaint, limited to the revision of his damages claim, is GRANTED. Fed. R. Civ. P. 15(a)(2). Plaintiff may only revise

1 his damages claim, and may not amend his complaint to add new claims, allegations, or
2 defendants. Plaintiff is also advised of the general rule that an amended complaint supersedes the
3 original complaint. Lacey v. Maricopa Cty., 693 F.3d 896, 927 (9th Cir. 2012) (en banc).
4 Therefore, Plaintiff’s amended complaint must be “complete in itself without reference to the
5 prior or superseded pleading.” Local Rule 220.

6 Plaintiff’s first amended complaint shall be filed within **thirty (30) days** following service
7 of this order. Defendant is directed to file a responsive pleading within **fourteen (14) days** after
8 service of the amended complaint. Fed. R. Civ. P. 15(a)(3).

9
10 IT IS SO ORDERED.

11 Dated: April 18, 2017

/s/ Barbara A. McAuliffe
12 UNITED STATES MAGISTRATE JUDGE

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28