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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 ISAAC DA'BOUR DAWSON,

12 Plaintiff,

13 v.

14 BEARD, et al.,

15 Defendants.
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1:15-cv-01867-DAD-GSA-PC

**SUPPLEMENTAL FINDINGS AND
RECOMMENDATIONS,
RECOMMENDING THAT PLAINTIFF'S
FIRST MOTION FOR SUMMARY
JUDGMENT (ECF No. 64) BE DEEMED
SUPERCEDED BY PLAINTIFF'S
SECOND MOTION FOR SUMMARY
JUDGMENT (ECF No. 84), RENDERING
THE FIRST MOTION FOR SUMMARY
JUDGMENT MOOT**

**OBJECTIONS, IF ANY, DUE WITHIN
FOURTEEN (14) DAYS**

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21 **I. BACKGROUND AND SUPPLEMENTAL FINDINGS**

22 On June 8, 2018, findings and recommendations were entered by the undersigned,
23 recommending that Plaintiff's motion for summary judgment, filed on November 6, 2017, be
24 stricken from the record as deficient, with leave to file a new motion for summary judgment no
25 later than August 30, 2018. (ECF No. 82.) The parties were granted fourteen days in which to
26 file objections to the findings and recommendations. The fourteen-day time period for
27 objections expired, and no objections were filed. The findings and recommendations are
28 pending.

1 On July 23, 2018, Plaintiff filed a second motion for summary judgment. (ECF No.
2 84.) In light of the fact that no objections were filed by any party to the court's
3 recommendation to strike Plaintiff's first motion for summary judgment, and the fact that
4 Plaintiff has now filed a second motion for summary judgment, the court shall recommend that
5 Plaintiff's first motion for summary judgment be deemed superceded by Plaintiff's second
6 motion for summary judgment, rendering Plaintiff's first motion for summary judgment moot.

7 **II. CONCLUSION AND RECOMMENDATIONS**

8 Based on the foregoing, **IT IS HEREBY RECOMMENDED** that Plaintiff's first
9 motion for summary judgment, filed on November 6, 2017, be deemed superceded by
10 Plaintiff's second motion for summary judgment, filed on July 23, 2018, rendering Plaintiff's
11 first motion for summary judgment moot.

12 These findings and recommendations are submitted to the United States District Judge
13 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen
14 (14) days of the date of service of these findings and recommendations, any party may file
15 written objections with the court. Such a document should be captioned "Objections to
16 Magistrate Judge's Findings and Recommendations." Any reply to the objections shall be
17 served and filed within seven (7) days after service of the objections. The parties are advised
18 that failure to file objections within the specified time may result in the waiver of rights on
19 appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan,
20 923 F.2d 1391, 1394 (9th Cir. 1991)).

21 IT IS SO ORDERED.

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23 Dated: October 17, 2018

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE