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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

LARRY SMITH,  
Plaintiff,  
vs.  
J. GONZALES, et al.,  
Defendants.

1:17-cv-00436-DAD-GSA-PC  
ORDER ADDRESSING PLAINTIFF'S  
MOTION TO AMEND  
(ECF No. 10)  
ORDER INFORMING PLAINTIFF HE  
HAS LEAVE TO AMEND THE  
COMPLAINT ONCE AS A MATTER OF  
COURSE  
THIRTY DAY DEADLINE TO FILE  
FIRST AMENDED COMPLAINT  
ORDER FOR CLERK TO SEND  
COMPLAINT FORM TO PLAINTIFF

**I. BACKGROUND**

Larry Smith ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on March 27, 2017. (ECF No. 1.)

1 On June 5, 2017, Plaintiff filed a motion to amend the Complaint. (ECF No. 10.)

2 **II. MOTION TO AMEND – FED. R. CIV. P. 15(a)**

3 Plaintiff requests to “file an amended complaint without leave of the court before any  
4 defendant(s) has [*sic*] answered my original complaint.” (*Id.* at 1.) Plaintiff provides a list of  
5 the defendants in this case, with a statement that “[e]ach defendant is sued individually, at all  
6 times mentioned in this complaint each defendant acted under the color of state law.” (*Id.* at 2.)

7 To the extent that Plaintiff wishes to amend the Complaint by adding information to the  
8 Complaint after it has been filed, Plaintiff may not amend the Complaint in this manner. Under  
9 Local Rule 220,<sup>1</sup> Plaintiff may not amend the Complaint by adding information piecemeal after  
10 the Complaint has been filed. To add information or correct an error in the Complaint, Plaintiff  
11 must file a new First Amended Complaint which is complete within itself.

12 Plaintiff may file an amended complaint at this stage of the proceedings without leave  
13 of court. Under Rule 15(a) of the Federal Rule of Civil Procedure, a party may amend the  
14 party’s pleading once as a matter of course at any time before a responsive pleading is served.  
15 Otherwise, a party may amend only by leave of the court or by written consent of the adverse  
16 party, and leave shall be freely given when justice so requires. Fed. R. Civ. P. 15(a). Here,  
17 because Plaintiff has not previously amended the Complaint and no responsive pleading has  
18 been served in this action, Plaintiff has leave to file an amended complaint as a matter of  
19 course. Plaintiff shall be granted thirty days in which to file a First Amended Complaint,  
20 making the needed changes.

21 Plaintiff must demonstrate in his amended complaint how the conditions complained of  
22 have resulted in a deprivation of Plaintiff’s constitutional rights. See Ellis v. Cassidy, 625 F.2d  
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24 <sup>1</sup> Local Rule 220 provides, in part:

25 Unless prior approval to the contrary is obtained from the Court, every pleading to  
26 which an amendment or supplement is permitted as a matter of right or has been allowed by  
27 court order shall be retyped and filed so that it is complete in itself without reference to the prior  
28 or superseded pleading. No pleading shall be deemed amended or supplemented until this Rule  
has been complied with. All changed pleadings shall contain copies of all exhibits referred to in  
the changed pleading.

1 227 (9th Cir. 1980). The amended complaint must allege in specific terms how each named  
2 defendant is involved. There can be no liability under 42 U.S.C. § 1983 unless there is some  
3 affirmative link or connection between a defendant's actions and the claimed deprivation.  
4 Rizzo v. Goode, 423 U.S. 36 (1976); May v. Enomoto, 633 F.2d 164, 167 (9th Cir. 1980);  
5 Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

6 As a general rule, an amended complaint supersedes the original complaint. See Loux  
7 v. Rhay, 375 F.2d 55, 57 (9th Cir. 1967). Once an amended complaint is filed, the original  
8 complaint no longer serves any function in the case. Therefore, in an amended complaint, as in  
9 an original complaint, each claim and the involvement of each defendant must be sufficiently  
10 alleged.

11 Plaintiff should note that although he has the opportunity to amend, it is not for the  
12 purpose of adding allegations of events occurring after March 27, 2017, the date the initial  
13 Complaint was filed. Plaintiff may not change the nature of this suit by adding new, unrelated  
14 claims in his amended complaint. George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007) (no  
15 "buckshot" complaints).

16 The First Amended Complaint should be clearly and boldly titled "FIRST AMENDED  
17 COMPLAINT," refer to the appropriate case number, and be an original signed under penalty  
18 of perjury.

### 19 **III. CONCLUSION**

20 Accordingly, IT IS HEREBY ORDERED that:

- 21 1. Plaintiff's motion to amend, filed on June 5, 2017, is RESOLVED;
- 22 2. Plaintiff is advised that he may not add information to the Complaint by adding  
23 information piecemeal to the Complaint after the Complaint has been filed;
- 24 3. Plaintiff is informed that he has leave to amend the Complaint once as a matter  
25 of course;
- 26 4. Plaintiff is granted thirty (30) days from the date of service of this order, in  
27 which to file a First Amended Complaint as instructed by this order, using the  
28 court's form;

