

1 **B. Summary of Plaintiff's Complaint**

2 Plaintiff alleges that the California Department of Corrections is legally responsible for
3 the overall operation of California prisons and that the Wardens of SCC, PBSC, CTF, SVSP, and
4 CSATF are responsible for the actions that occur to inmates in their respective facilities. Plaintiff
5 alleges he was allowed to be brutally assaulted at SCC in February 2016 and that he was
6 subsequently transferred among the above prisons in an effort “to permanently ‘silence’ and/or
7 ‘kill’ plaintiff for complaining about their conduct.” (Doc. 1, pp. 3-4.) However, Plaintiff fails to
8 name any individuals as defendants in this action, fails to link any individuals to the claims he is
9 attempting to state, and fails to state specific factual allegations to support any of his claims.

10 The CDC is the only defendant named in this action. Plaintiff asserts claims under the
11 First, Eighth, and Fourteenth Amendments and seeks declaratory relief, preliminary and
12 permanent injunctive relief, and monetary damages. Plaintiff has not stated any cognizable
13 claims, but may be able to correct the deficiencies in his pleading. Thus, the Court set forth the
14 pleading requirements and the standards for his delineated claims. Likewise, the Court grants
15 him leave to file a first amended complaint.

16 **C. Pleading Requirements**

17 **1. Federal Rule of Civil Procedure 8(a)**

18 “Rule 8(a)’s simplified pleading standard applies to all civil actions, with limited
19 exceptions,” none of which applies to section 1983 actions. *Swierkiewicz v. Sorema N. A.*, 534
20 U.S. 506, 512 (2002); Fed. R. Civ. Pro. 8(a). A complaint must contain “a short and plain
21 statement of the claim showing that the pleader is entitled to relief . . .” Fed. R. Civ. Pro. 8(a).
22 “Such a statement must simply give the defendant fair notice of what the plaintiff’s claim is and
23 the grounds upon which it rests.” *Swierkiewicz*, 534 U.S. at 512.

24 Detailed factual allegations are not required, but “[t]hreadbare recitals of the elements of a
25 cause of action, supported by mere conclusory statements, do not suffice.” *Ashcroft v. Iqbal*, 556
26 U.S. 662, 678 (2009), quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007).
27 Plaintiff must set forth “sufficient factual matter, accepted as true, to ‘state a claim that is
28 plausible on its face.’” *Iqbal*, 556 U.S. at 678, quoting *Twombly*, 550 U.S. at 555. Factual

1 allegations are accepted as true, but legal conclusions are not. *Iqbal*. at 678; *see also Moss v. U.S.*
2 *Secret Service*, 572 F.3d 962, 969 (9th Cir. 2009); *Twombly*, 550 U.S. at 556-557. The vast
3 majority, if not all of Plaintiff's allegations are general legal conclusions.

4 While "plaintiffs [now] face a higher burden of pleadings facts . . .," *Al-Kidd v. Ashcroft*,
5 580 F.3d 949, 977 (9th Cir. 2009), the pleadings of *pro se* prisoners are still construed liberally
6 and are afforded the benefit of any doubt. *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010).
7 However, "the liberal pleading standard . . . applies only to a plaintiff's factual allegations,"
8 *Neitze v. Williams*, 490 U.S. 319, 330 n.9 (1989), "a liberal interpretation of a civil rights
9 complaint may not supply essential elements of the claim that were not initially pled," *Bruns v.*
10 *Nat'l Credit Union Admin.*, 122 F.3d 1251, 1257 (9th Cir. 1997) quoting *Ivey v. Bd. of Regents*,
11 673 F.2d 266, 268 (9th Cir. 1982), and courts are not required to indulge unwarranted inferences,
12 *Doe I v. Wal-Mart Stores, Inc.*, 572 F.3d 677, 681 (9th Cir. 2009) (internal quotation marks and
13 citation omitted). The "sheer possibility that a defendant has acted unlawfully" is not sufficient,
14 and "facts that are 'merely consistent with' a defendant's liability" fall short of satisfying the
15 plausibility standard. *Iqbal*, 556 U.S. at 678, 129 S. Ct. at 1949; *Moss*, 572 F.3d at 969.
16 Plaintiff's general legal conclusions are largely void of any facts to even be merely consistent
17 with a defendant's liability -- let alone anything to satisfy *Iqbal*'s plausibility standard.

18 If he chooses to file a first amended complaint, Plaintiff should endeavor to make it as
19 concise as possible. He should simply state which of his constitutional rights he feels were
20 violated by each Defendant and its specific factual basis. Where the allegations against two or
21 more Defendants are factually intertwined, Plaintiff need not repeat the factual allegations
22 separately against each Defendant. Rather, Plaintiff should present his factual allegations and
23 identify the Defendants he feels are thereby implicated. Plaintiff need not cite legal authority for
24 his claims in a first amended complaint as his factual allegations are accepted as true. The
25 amended complaint should be clearly legible (*see* Local Rule 130(b)), and double-spaced
26 pursuant to Local Rule 130(c).

27 **2. Linkage Requirement**

28 The Civil Rights Act (42 U.S.C. § 1983) requires that there be an actual connection or link

1 between the actions of the defendants and the deprivation alleged to have been suffered by
2 Plaintiff. See *Monell v. Department of Social Services*, 436 U.S. 658 (1978); *Rizzo v. Goode*, 423
3 U.S. 362 (1976). The Ninth Circuit has held that “[a] person ‘subjects’ another to the deprivation
4 of a constitutional right, within the meaning of section 1983, if he does an affirmative act,
5 participates in another’s affirmative acts or omits to perform an act which he is legally required to
6 do that causes the deprivation of which complaint is made.” *Johnson v. Duffy*, 588 F.2d 740, 743
7 (9th Cir. 1978). In order to state a claim for relief under section 1983, Plaintiff must link
8 individual, named defendants with some affirmative act or omission that demonstrates a violation
9 of Plaintiff’s federal rights.

10 Plaintiff must clearly identify the individuals that he feels are responsible for each
11 violation of his constitutional rights and their factual basis as his Complaint must put each
12 Defendant on notice of Plaintiff’s claims against him or her. See *Austin v. Terhune*, 367 F.3d
13 1167, 1171 (9th Cir. 2004).

14 3. Federal Rule of Civil Procedure 18(a) & 20(a)(2)

15 Federal Rule of Civil Procedure 18(a) allows a party asserting a claim for relief as an
16 original claim, counterclaim, cross-claim, or third-party claim to join, either as independent or as
17 alternate claims, numerous claims against an opposing party. However, Plaintiff may not bring
18 unrelated claims against unrelated parties in a single action. Fed. R. Civ. P. 18(a), 20(a)(2);
19 *Owens v. Hinsley*, 635 F.3d 950, 952 (7th Cir. 2011); *George v. Smith*, 507 F.3d 605, 607 (7th
20 Cir. 2007). Plaintiff may bring a claim against multiple defendants so long as (1) the claims arise
21 out of the same transaction or occurrence, or series of transactions and occurrences, and (2) there
22 are common questions of law or fact. Fed. R. Civ. P. 20(a)(2); *Coughlin v. Rogers*, 130 F.3d
23 1348, 1351 (9th Cir. 1997); *Desert Empire Bank v. Insurance Co. of North America*, 623 F.3d
24 1371, 1375 (9th Cir. 1980). Plaintiff is cautioned that incidents that occur at different prison
25 facilities are generally not related. If Plaintiff feels they are related, he must state specific factual
26 allegations showing as much. Only if the defendants are properly joined under Rule 20(a) will
27 the Court review the additional claims to determine if they may be joined under Rule 18(a), which
28 permits the joinder of multiple claims against the same party.

1 The Court must be able to discern a relationship between Plaintiff’s claims or there must
2 be a similarity of parties. The fact that all of Plaintiff’s allegations are based on the same type of
3 constitutional violation (i.e. retaliation by different actors on different dates, under different
4 factual events) does not necessarily make claims related for purposes of Rule 18(a). All claims
5 that do not comply with Rules 18(a) and 20(a)(2) are subject to dismissal. Plaintiff is cautioned
6 that if he fails to elect which category of claims to pursue and his amended complaint sets forth
7 improperly joined claims, the Court will determine which claims should proceed and which
8 claims will be dismissed. *Visendi v. Bank of America, N.A.*, 733 F.3d 863, 870-71 (9th Cir. 2013).
9 Whether any claims will be subject to severance by future order will depend on the viability of
10 claims pled in the amended complaint.

11 **4. Eleventh Amendment Immunity**

12 Plaintiff names the CDC as a defendant. The Eleventh Amendment prohibits a plaintiff
13 from suing a state in federal court. *Brooks v. Sulphur Springs Valley Elec. Co.*, 951 F.2d 1050,
14 1053 (9th Cir. 1991); *see also Seminole Tribe of Fla. v. Florida*, 116 S.Ct. 1114, 1122 (1996);
15 *Puerto Rico Aqueduct Sewer Auth. v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 144 (1993); *Austin v.*
16 *State Indus. Ins. Sys.*, 939 F.2d 676, 677 (9th Cir. 1991). The Eleventh Amendment bars suits
17 against state agencies as well as those where the state or an official of the state is named as a
18 defendant. *See Natural Resources Defense Council v. California Dep’t of Tranp.*, 96 F.3d 420,
19 421 (9th Cir. 1996); *Brooks v. Sulphur Springs Valley Elec. Co.*, 951 F.2d 1050, 1053 (9th Cir.
20 1991); *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989) (concluding that Nevada Department
21 of Prisons was a state agency entitled to Eleventh Amendment immunity); *Mitchell v. Los*
22 *Angeles Community College Dist.*, 861 F.2d 198, 201 (9th Cir. 1989). “Though its language
23 might suggest otherwise, the Eleventh Amendment has long been construed to extend to suits
24 brought against a state by its own citizens, as well as by citizens of other states.” *Brooks*, 951
25 F.2d at 1053 (citations omitted). “The Eleventh Amendment’s jurisdictional bar covers suits
26 naming state agencies and departments as defendants, and applies whether the relief is legal or
27 equitable in nature.” *Id.* (citation omitted). Because the California Department of Corrections is
28 a state agency, it is entitled to dismissal based on Eleventh Amendment.

1 **D. Claims for Relief**

2 **1. Eighth Amendment -- Failure to Protect**

3 “The treatment a prisoner receives in prison and the conditions under which he is confined
4 are subject to scrutiny under the Eighth Amendment.” *Farmer v. Brennan*, 511 U.S. 825, 832
5 (1994) (citing *Helling v. McKinney*, 509 U.S. 25, 31 (1993)). Prison officials have a duty “to take
6 reasonable measures to guarantee the safety of inmates, which has been interpreted to include a
7 duty to protect prisoners.” *Labatad v. Corrections Corp. of America*, 714 F.3d 1155, 1160 (9th
8 Cir. 2013) (citing *Farmer*, 511 U.S. at 832-33; *Hearns v. Terhune*, 413 F.3d 1036, 1040 (9th Cir.
9 2005)).

10 To establish a violation of this duty, the prisoner must “show that the officials acted with
11 deliberate indifference to threat of serious harm or injury to an inmate.” *Labatad*, at 1160 (citing
12 *Gibson v. County of Washoe*, 290 F.3d 1175, 1187 (9th Cir. 2002)). This involves both objective
13 and subjective components.

14 First, objectively, the alleged deprivation must be “sufficiently serious” and where a
15 failure to prevent harm is alleged, “the inmate must show that he is incarcerated under conditions
16 posing a substantial risk of serious harm.” *Id.* at 834, quoting *Rhodes v. Chapman*, 452 U.S. 337,
17 349 (1981). Second, subjectively, the prison official must “know of and disregard an excessive
18 risk to inmate health or safety.” *Id.* at 837; *Anderson v. County of Kern*, 45 F.3d 1310, 1313 (9th
19 Cir. 1995). A prison official must “be aware of facts from which the inference could be drawn
20 that a substantial risk of serious harm exists, and . . . must also draw the inference.” *Farmer*, 511
21 U.S. at 837. Liability may follow only if a prison official “knows that inmates face a substantial
22 risk of serious harm and disregards that risk by failing to take reasonable measures to abate it.”
23 *Id.* at 847.

24 Further, the Supreme Court has stated that a remedy for unsafe conditions need not await
25 a tragic event; rather, where a risk/injury has yet to occur, the plaintiff’s burden would be to prove
26 that his future health/safety is unreasonably endangered, “that it is contrary to current standards of
27 decency for anyone to be so exposed against his will, and that prison officials are deliberately
28

1 indifferent to his plight.” *Helling*, 509 U.S. at 33-35.

2 The question under the Eighth Amendment is whether prison officials, acting with
3 deliberate indifference, exposed a prisoner to a sufficiently substantial “risk of serious damage to
4 his future health” *Farmer*, at 843 (citing *Helling*, 509 U.S. at 35). The Supreme Court has
5 explained that “deliberate indifference entails something more than mere negligence . . . [but]
6 something less than acts or omissions for the very purpose of causing harm or with the knowledge
7 that harm will result.” *Id.*, at 835. The Court defined this “deliberate indifference” standard as
8 equal to “recklessness,” in which “a person disregards a risk of harm of which he is aware.” *Id.*,
9 at 836-37.

10 As previously mentioned, Plaintiff fails to link any of the named defendants to his factual
11 allegations to proceed on a claim under the Eighth Amendment. Upon amendment, Plaintiff’s
12 allegations must show the factual basis upon which each named defendant knew that their actions
13 would result in an excessive risk of serious harm to Plaintiff and acted in deliberate indifference
14 thereto.

15 2. First Amendment -- Retaliation

16 Prisoners have a First Amendment right to file grievances against prison officials and to
17 be free from retaliation for doing so. *Waitson v. Carter*, 668 F.3d 1108, 1114-1115 (9th Cir.
18 2012); *Brodheim v. Cry*, 584 F.3d 1262, 1269 (9th Cir.2009). A retaliation claim has five
19 elements. *Id.* at 1114.

20 First, the plaintiff must allege that the retaliated-against conduct is protected. *Id.* The
21 filing of an inmate grievance is protected conduct, *Rhodes v. Robinson*, 408 F.3d 559, 568 (9th
22 Cir. 2005), as are the rights to speech or to petition the government, *Rizzo v. Dawson*, 778 F.2d
23 527, 532 (9th Cir. 1985); *see also Valandingham v. Bojorquez*, 866 F.2d 1135 (9th Cir. 1989);
24 *Pratt v. Rowland*, 65 F.3d 802, 807 (9th Cir. 1995). Second, the plaintiff must show the
25 defendant took adverse action against the plaintiff. *Rhodes*, at 567. Third, the plaintiff must
26 allege a causal connection between the adverse action and the protected conduct. *Waitson*, 668
27 F.3d at 1114. Fourth, the plaintiff must allege that the “official’s acts would chill or silence a
28 person of ordinary firmness from future First Amendment activities.” *Robinson*, 408 F.3d at 568

1 (internal quotation marks and emphasis omitted). “[A] plaintiff who fails to allege a chilling
2 effect may still state a claim if he alleges he suffered some other harm,” *Brodheim*, 584 F.3d at
3 1269, that is “more than minimal,” *Robinson*, 408 F.3d at 568 n.11. Fifth, the plaintiff must
4 allege “that the prison authorities’ retaliatory action did not advance legitimate goals of the
5 correctional institution. . . .” *Rizzo v. Dawson*, 778 F.2d 527, 532 (9th Cir.1985).

6 It bears repeating that while Plaintiff need only allege facts sufficient to support a
7 plausible claim for relief, the mere possibility of misconduct is not sufficient, *Iqbal*, 556 U.S. at
8 678-79, and the Court is “not required to indulge unwarranted inferences,” *Doe I v. Wal-Mart*
9 *Stores, Inc.*, 572 F.3d 677, 681 (9th Cir. 2009) (internal quotation marks and citation omitted).
10 Thus, Plaintiff’s mere allegations that he engaged in protected activity, without knowledge
11 resulting in animus by a Defendant, is insufficient to show that Plaintiff’s protected activity was
12 the motivating factor behind a Defendant’s actions.

13 **3. Fourteenth Amendment**

14 **a. Due Process**

15 **(1) Procedural**

16 The Fourteenth Amendment’s Due Process Clause protects persons against deprivations
17 of life, liberty, or property; and those who seek to invoke its procedural protection must establish
18 that one of these interests is at stake.” *Wilkinson v. Austin*, 545 U.S. 209, 221, 125 S.Ct. 2384
19 (2005). Plaintiff has not alleged any facts that would support a claim that he was deprived of a
20 protected interest without procedural due process.

21 **(2) Substantive**

22 “To establish a violation of substantive due process . . . , a plaintiff is ordinarily required
23 to prove that a challenged government action was clearly arbitrary and unreasonable, having no
24 substantial relation to the public health, safety, morals, or general welfare. Where a particular
25 amendment provides an explicit textual source of constitutional protection against a particular
26 sort of government behavior, that Amendment, not the more generalized notion of substantive due
27 process, must be the guide for analyzing a plaintiff’s claims.” *Patel v. Penman*, 103 F.3d 868,
28 874 (9th Cir. 1996) (citations, internal quotations, and brackets omitted), *cert. denied*, 520 U.S.

1 1240 (1997); *County of Sacramento v. Lewis*, 523 U.S. 833, 842 (1998). Plaintiff has not alleged
2 any facts that would support a claim that his rights under the substantive component of the Due
3 Process Clause were violated.

4 **b. Equal Protection**

5 Plaintiff variously alleges that his rights to equal protection were violated. The Equal
6 Protection Clause requires that persons who are similarly situated be treated alike. *City of*
7 *Cleburne v. Cleburne Living Center, Inc.*, 473 U.S. 432, 439(1985); *Hartmann v. California*
8 *Dep't of Corr. & Rehab.*, 707 F.3d 1114, 1123 (9th Cir. 2013); *Furnace v. Sullivan*, 705 F.3d
9 1021, 1030 (9th Cir. 2013); *Shakur v. Schriro*, 514 F.3d 878, 891 (9th Cir. 2008). To state a
10 claim, Plaintiff must show that Defendants intentionally discriminated against him based on his
11 membership in a protected class. *Hartmann*, 707 F.3d at 1123; *Furnace*, 705 F.3d at 1030;
12 *Serrano v. Francis*, 345 F.3d 1071, 1082 (9th Cir. 2003); *Thornton v. City of St. Helens*, 425 F.3d
13 1158, 1166-67 (9th Cir. 2005); *Lee v. City of Los Angeles*, 250 F.3d 668, 686 (9th Cir. 2001).

14 If the action in question does not involve a suspect classification, a plaintiff may establish
15 an equal protection claim by showing that similarly situated individuals were intentionally treated
16 differently without a rational relationship to a legitimate state purpose. *Engquist v. Oregon*
17 *Department of Agriculture*, 553 U.S. 591, 601-02 (2008); *Village of Willowbrook v. Olech*, 528
18 U.S. 562, 564 (2000); *San Antonio School District v. Rodriguez*, 411 U.S. 1 (1972); *Lazy Y Ranch*
19 *Ltd. v. Behrens*, 546 F.3d 580, 592 (9th Cir. 2008); *North Pacifica LLC v. City of Pacifica*, 526
20 F.3d 478, 486 (9th Cir. 2008), *see also Squaw Valley Development Co. v. Goldberg*, 375 F.3d
21 936, 944 (9th Cir.2004); *Sea River Mar. Fin. Holdings, Inc. v. Mineta*, 309 F.3d 662, 679 (9th
22 Cir. 2002). To state an equal protection claim under this theory, a plaintiff must allege that: (1)
23 the plaintiff is a member of an identifiable class; (2) the plaintiff was intentionally treated
24 differently from others similarly situated; and (3) there is no rational basis for the difference in
25 treatment. *Village of Willowbrook*, 528 U.S. at 564. Further, to establish a violation of the Equal
26 Protection Clause, the prisoner must present evidence of discriminatory intent. *See Washington v.*
27 *Davis*, 426 U.S. 229, 239-240 (1976); *Serrano*, 345 F.3d at 1081-82; *Freeman v. Arpio*, 125 F.3d
28 732, 737 (9th Cir. 1997).

1 Plaintiff does not state a cognizable Equal Protection claim. Plaintiff fails to state any
2 allegations to show his membership in a protected class; nor does Plaintiff show that he was
3 intentionally treated differently from others similarly situated; nor does Plaintiff show any
4 discriminatory intent on the part of any individual prison staff.

5 4. Supervisory Liability

6 It appears that Plaintiff feels the Wardens of SCC, PBSC, CTF, SVSP, and CSATF are
7 liable, not because any of them were directly involved in an incident, but merely because they
8 hold a supervisory position.

9 Supervisory personnel are generally not liable under section 1983 for the actions of their
10 employees under a theory of *respondeat superior* and, therefore, when a named defendant holds a
11 supervisory position, the causal link between him and the claimed constitutional violation must be
12 specifically alleged. *See Fayle v. Stapley*, 607 F.2d 858, 862 (9th Cir. 1979); *Mosher v. Saalfeld*,
13 589 F.2d 438, 441 (9th Cir. 1978), cert. denied, 442 U.S. 941 (1979). To state a claim for relief
14 under section 1983 based on a theory of supervisory liability, Plaintiff must allege some facts that
15 would support a claim that supervisory defendants either: personally participated in the alleged
16 deprivation of constitutional rights; knew of the violations and failed to act to prevent them; or
17 promulgated or “implemented a policy so deficient that the policy ‘itself is a repudiation of
18 constitutional rights’ and is ‘the moving force of the constitutional violation.’” *Hansen v. Black*,
19 885 F.2d 642, 646 (9th Cir. 1989) (internal citations omitted); *Taylor v. List*, 880 F.2d 1040, 1045
20 (9th Cir. 1989). Under section 1983, liability may not be imposed on supervisory personnel for
21 the actions of their employees under a theory of *respondeat superior*. *Iqbal*, 556 U.S. at 677. “In
22 a § 1983 suit or a *Bivens* action - where masters do not answer for the torts of their servants - the
23 term ‘supervisory liability’ is a misnomer.” *Id.* Knowledge and acquiescence of a subordinate’s
24 misconduct is insufficient to establish liability; each government official is only liable for his or
25 her own misconduct. *Id.*

26 “[B]are assertions . . . amount[ing] to nothing more than a “formulaic recitation of the
27 elements” of a constitutional discrimination claim,’ for the purposes of ruling on a motion to
28 dismiss [and thus also for screening purposes], are not entitled to an assumption of truth.” *Moss*,

1 572 F.3d at 969 (quoting *Iqbal*, 556 U.S. at 1951 (quoting *Twombly*, 550 U.S. at 555)). “Such
2 allegations are not to be discounted because they are ‘unrealistic or nonsensical,’ but rather
3 because they do nothing more than state a legal conclusion – even if that conclusion is cast in the
4 form of a factual allegation.” *Id.* Thus, any allegations that supervisory personnel, such as a
5 Warden, are somehow liable solely based on the acts of those under his or her supervision at a
6 given prison does not amount to a cognizable claim.

7 **E. Conclusion and Order**

8 For the reasons set forth above, Plaintiff’s Complaint is dismissed with leave to file a first
9 amended complaint **within 21 days**. If Plaintiff no longer desires to pursue this action, he may
10 file a notice of voluntary dismissal. If Plaintiff needs an extension of time to comply with this
11 order, Plaintiff shall file a motion seeking an extension of time no later than **21 days** from the
12 date of service of this order.

13 Plaintiff must demonstrate in any first amended complaint how the conditions complained
14 of have resulted in a deprivation of Plaintiff’s constitutional rights. *See Ellis v. Cassidy*, 625 F.2d
15 227 (9th Cir. 1980). The first amended complaint must allege in specific terms how each named
16 defendant is involved. There can be no liability under section 1983 unless there is some
17 affirmative link or connection between a defendant’s actions and the claimed deprivation. *Rizzo*
18 *v. Goode*, 423 U.S. 362 (1976); *May v. Enomoto*, 633 F.2d 164, 167 (9th Cir. 1980); *Johnson v.*
19 *Duffy*, 588 F.2d 740, 743 (9th Cir. 1978).

20 Plaintiff’s first amended complaint should be brief. Fed. R. Civ. P. 8(a). Such a short and
21 plain statement must “give the defendant fair notice of what the . . . claim is and the grounds upon
22 which it rests.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) quoting *Conley v.*
23 *Gibson*, 355 U.S. 41, 47 (1957). Although accepted as true, the “[f]actual allegations must be
24 [sufficient] to raise a right to relief above the speculative level” *Twombly*, 550 U.S. 127, 555
25 (2007) (citations omitted).

26 Plaintiff is further advised that an amended complaint supercedes the original, *Lacey v.*
27 *Maricopa County*, Nos. 09-15806, 09-15703, 2012 WL 3711591, at *1 n.1 (9th Cir. Aug. 29,
28 2012) (en banc), and must be “complete in itself without reference to the prior or superceded

1 pleading,” Local Rule 220.

2 The Court provides Plaintiff with opportunity to amend to cure the deficiencies identified
3 by the Court in this order. *Noll v. Carlson*, 809 F.2d 1446, 1448-49 (9th Cir. 1987). Plaintiff
4 may not change the nature of this suit by adding new, unrelated claims in his first amended
5 complaint. *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007) (no “buckshot” complaints).

6 Based on the foregoing, the Court **ORDERS**:

- 7 1. Plaintiff’s Complaint is dismissed, with leave to amend;
- 8 2. The Clerk’s Office shall send Plaintiff a civil rights complaint form; and
- 9 3. **Within 21 days** from the date of service of this order, Plaintiff must file a first
10 amended complaint curing the deficiencies identified by the Court in this order or
11 a notice of voluntary dismissal.

12 **If Plaintiff fails to comply with this order, this action will be dismissed for failure to obey a**
13 **court order and for failure to state a claim.**

14 IT IS SO ORDERED.

15 Dated: July 24, 2017

16 /s/ Jennifer L. Thurston
17 UNITED STATES MAGISTRATE JUDGE

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