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6 UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF CALIFORNIA  
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9 PAUL JORGENSEN,  
10 Plaintiff,  
11 v.  
12 THOMAS MOORE, M.D., et al.,  
13 Defendants.  
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Case No. 1:17-cv-00817-LJO-EPG (PC)  
ORDER VACATING FINDINGS AND  
RECOMMENDATIONS, AND ALLOWING  
PLAINTIFF TO FILE SECOND AMENDED  
COMPLAINT WITHIN THIRTY DAYS  
(ECF NO. 16)

17 Paul Jorgenson (“Plaintiff”) is a federal prisoner proceeding *pro se* and *in forma*  
18 *pauperis* in this action.

19 On May 16, 2018, the Court entered findings and recommendations, recommending that  
20 this action be allowed to proceed on Plaintiff’s “FTCA claim against the United States and his  
21 state tort claims for medical negligence and battery against Defendants Haak, Randhawa, and  
22 Emanuel Medical Center.” (ECF No. 16, p. 11). The Court also recommended “that all other  
23 claims and defendants be dismissed with prejudice.” (*Id.*).

24 On June 20, 2018, Plaintiff filed objections to the findings and recommendations. (ECF  
25 No. 17). In his objections, Plaintiff has made what appear to be new factual allegations. For  
26 example, Plaintiff appears to be alleging that defendant Moore directly ordered Plaintiff to  
27 undergo at least one of the procedures at issue in his complaint. (*Id.* at 3). Additionally, it  
28 appears that Plaintiff is attempting to assert a claim against the four unknown escort

1 correctional officers based on the conditions he was subjected to during his hospital stay,  
2 including keeping him chained hand and foot to his hospital bed for seventy-two hours. (Id. at  
3 6).

4 Given these new allegations, and that under Rule 15(a)(2) of the Federal Rules of Civil  
5 Procedure, “the court should freely give leave [to amend] when justice so requires,” the Court  
6 will allow Plaintiff to file a Second Amended Complaint.

7 Plaintiff should note that although he has been given the opportunity to amend, it is not  
8 for the purpose of changing the nature of this suit or adding unrelated claims. George v. Smith,  
9 507 F.3d 605, 607 (7th Cir. 2007) (no “buckshot” complaints).

10 Plaintiff is advised that an amended complaint supersedes the original complaint, Lacey  
11 v. Maricopa County, 693 F.3d. 896, 907 n.1 (9th Cir. 2012) (*en banc*), and it must be complete  
12 in itself without reference to the prior or superseded pleading, Local Rule 220. Therefore, in an  
13 amended complaint, as in an original complaint, each claim and the involvement of each  
14 defendant must be sufficiently alleged. The amended complaint should be clearly and boldly  
15 titled “Second Amended Complaint,” refer to the appropriate case number, and be an original  
16 signed under penalty of perjury.

17 Accordingly, IT IS ORDERED that:

- 18 1. The Findings and Recommendations issued on May 16, 2018 (ECF No. 16), are  
19 VACATED; and
- 20 2. Plaintiff has thirty days from the date of service of this order to file his Second  
21 Amended Complaint.

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23 IT IS SO ORDERED.

24 Dated: June 21, 2018

25 /s/ Eric P. Gray  
26 UNITED STATES MAGISTRATE JUDGE  
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