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7 UNITED STATES DISTRICT COURT  
8 EASTERN DISTRICT OF CALIFORNIA  
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10 LUIS RENTERIA,

11 Plaintiff,

12 vs.

13 KABIR MATHARU, et al.,

14 Defendants.  
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1:18-cv-00497-LJO-GSA-PC

**ORDER DENYING REQUEST TO  
WITHDRAW FIRST AMENDED  
COMPLAINT AND PROCEED WITH  
ORIGINAL COMPLAINT  
(ECF No. 23.)**

**ORDER REQUIRING PLAINTIFF TO  
FILE A SECOND AMENDED  
COMPLAINT PURSUANT TO THE  
SCREENING ORDER ISSUED ON  
DECEMBER 14, 2018  
(ECF No. 22.)**

**THIRTY-DAY DEADLINE FOR  
PLAINTIFF TO FILE SECOND  
AMENDED COMPLAINT**

20 **I. BACKGROUND**

21 Luis Renteria (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in  
22 this civil rights action pursuant to 42 U.S.C. § 1983. On April 12, 2018, Plaintiff filed the  
23 Complaint commencing this case. (ECF No. 1.) On May 29, 2018, Plaintiff filed a First  
24 Amended Complaint as a matter of course. (ECF No. 15.) On December 14, 2018, the court  
25 issued a screening order dismissing the First Amended Complaint for violation of Local Rule  
26 220 and failure to state a claim, with leave to amend within thirty days. (ECF No. 22.)  
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1 On January 4, 2019, Plaintiff filed a request to withdraw the First Amended Complaint  
2 and proceed with the original Complaint. (ECF No. 23.)

3 **II. DISCUSSION**

4 Plaintiff's request shall be denied. As Plaintiff was advised in the court's screening  
5 order issued on December 14, 2018, an amended complaint supercedes the original complaint,  
6 Lacey v. Maricopa County, 693 F 3d. 896, 907 n.1 (9th Cir. 2012). (ECF No. 22 at 7:15-16.)  
7 Therefore, Plaintiff's original Complaint was superceded by Plaintiff's First Amended  
8 Complaint and shall not be reinstated. Plaintiff's remedy at this stage of the proceedings is to  
9 file a Second Amended Complaint curing the deficiencies found by the court in the screening  
10 order. To the extent that Plaintiff believes his claims in the original Complaint are cognizable,  
11 Plaintiff is not precluded from including those claims in the Second Amended Complaint.  
12 Because Plaintiff filed the First Amended Complaint as a matter of course the court did not  
13 screen the original Complaint to determine if the claims therein were cognizable.

14 Plaintiff shall be granted thirty days in which to comply with the December 14, 2018,  
15 screening order by filing a Second Amended Complaint.

16 **III. CONCLUSION**

17 Based on the foregoing, it is **HEREBY ORDERED** that:

- 18 1. Plaintiff's request to withdraw the First Amended Complaint and proceed with  
19 the original Complaint, filed on January 4, 2019, is DENIED;
- 20 2. Within thirty days of the date of service of this order, Plaintiff shall comply with  
21 the court's December 14, 2018, screening order by filing a Second Amended  
22 Complaint; and
- 23 3. Plaintiff's failure to comply with this order shall result in a recommendation that  
24 this case be dismissed for failure to state a claim.

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26 IT IS SO ORDERED.

27 Dated: January 12, 2019

/s/ Gary S. Austin  
28 UNITED STATES MAGISTRATE JUDGE

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