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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**

10
11 RUBEN FIGUEROA,

12 Plaintiff,

13 v.

14 CLARK, et al.,

15 Defendants.

16 Case No. 1:22-cv-00916-ADA-BAM (PC)

17 ORDER VACATING FINDINGS AND
RECOMMENDATIONS
(ECF No. 10)

ORDER GRANTING PLAINTIFF'S MOTION
FOR EXTENSION OF TIME TO FILE AN
AMENDED COMPLAINT
(ECF No. 11)

THIRTY (30) DAY DEADLINE

18 Plaintiff Ruben Figueroa ("Plaintiff") is a former state prisoner proceeding *pro se* and *in*
19 *forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

20 On August 25, 2022, the Court issued a screening order granting Plaintiff leave to file a
21 first amended complaint or a notice of voluntary dismissal within thirty (30) days. (ECF No. 5.)
22 Following two extensions of time, and Plaintiff's failure to file a first amended complaint or a
23 notice of voluntary dismissal, the Court issued findings and recommendations that this action be
24 dismissed, with prejudice, for failure to state a claim, failure to obey court orders, and failure to
25 prosecute. (ECF No. 10.) Plaintiff was directed to file any objections to the findings and
26 recommendations within fourteen (14) days. (*Id.*)

27 On January 13, 2023, Plaintiff filed a Notice of Change of Address and Motion for
28 Enlargement of Time – 30 Days. (ECF No. 11.) In his motion, Plaintiff states that he moved

1 from his transition home to a new permanent address during the first week of December 2022,
2 and has not received any of his mail sent to his previous address. Plaintiff was homeless for
3 weeks until he moved to his new permanent address. Plaintiff requests an extension of thirty days
4 to file his amended complaint, or until February 6, 2022. (*Id.*)

5 Having considered Plaintiff's motion, the Court finds it appropriate to vacate the pending
6 findings and recommendations. Plaintiff's motion for an extension of time to file a first amended
7 complaint is granted.

8 Plaintiff's amended complaint should be brief, Fed. R. Civ. P. 8(a), but it must state what
9 each named defendant did that led to the deprivation of Plaintiff's constitutional rights, *Iqbal*, 556
10 U.S. at 678-79. Although accepted as true, the “[f]actual allegations must be [sufficient] to raise
11 a right to relief above the speculative level” *Twombly*, 550 U.S. at 555 (citations omitted).
12 Any amended complaint shall be **limited to 25 pages in length**, including exhibits. Plaintiff may
13 not join unrelated claims.

14 Additionally, Plaintiff may not change the nature of this suit by adding new, unrelated
15 claims in his first amended complaint. *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007) (no
16 “buckshot” complaints).

17 Finally, Plaintiff is advised that an amended complaint supersedes the original complaint.
18 *Lacey v. Maricopa Cty.*, 693 F.3d 896, 927 (9th Cir. 2012). Therefore, Plaintiff's amended
19 complaint must be “complete in itself without reference to the prior or superseded pleading.”
20 Local Rule 220.

21 Accordingly, IT IS HEREBY ORDERED that:

- 22 1. The findings and recommendations issued on January 11, 2023, (ECF No. 10), are
23 **VACATED**;
- 24 2. Plaintiff's motion for extension of time to file an amended complaint, (ECF No. 11), is
25 **GRANTED**;
- 26 3. The Clerk's Office shall send Plaintiff a complaint form;
- 27 4. Within **thirty (30) days** from the date of service of this order, Plaintiff shall file a first
28 amended complaint curing the deficiencies identified by the Court's August 25, 2022

- 1 screening order (or file a notice of voluntary dismissal);
- 2 5. Any amended complaint shall be **limited to 25 pages in length**, including exhibits; and
- 3 6. **If Plaintiff fails to file a first amended complaint in compliance with this order, this**
- 4 **action will be dismissed, with prejudice, for failure to obey a court order and failure**
- 5 **to state a claim.**

6 IT IS SO ORDERED.

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8 Dated: January 18, 2023

9 /s/ Barbara A. McAuliffe
10 UNITED STATES MAGISTRATE JUDGE

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