	Case 1:22-cv-01540-JLT-SKO Document 19	Filed 01/19/23 Page 1 of 3
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6	UNITED STATES DISTRICT COURT	
7	EASTERN DISTRICT OF CALIFORNIA	
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9		e No. 1:22-cv-01540-JLT-SKO (PC)
10	MO	DER REGARDING PLAINTIFF'S DTION TO AMEND AND SUBSEQUENT TICE TO THE COURT
11		ис. 17)
12	Defendants.	~. 17)
13		
14	Plaintiff Mark Gelazela is a former prisoner proceeding pro se and in forma pauperis in	
15	this action.	
16	I. RELEVANT BACKGROUND	
17	On January 11, 2023, this Court issued its Order Directing Clerk of the Court to Strike the	
18	Second Amended Complaint Filed December 19, 2022 in this Action and to Substitute Another	
19 20	Pleading Filed Erroneously in Another Action. (Doc. 13.) The Order directed the Clerk to	
20	substitute one pleading for another following a filing error by Plaintiff amounting to a technical	
21	violation of an order issued by District Judge Anthony W. Ishii in another pending matter. On that	
22	same day, Plaintiff filed a "Declaration and Motion to the Court Not to Switch Claims Between	
23	Cases." (Doc. 17.)	
24 25	On January 12, 2023, Plaintiff filed a Notice to the Court. (Doc. 18.)	
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II. DISCUSSION

Plaintiff's January 11, 2023 Motion

In his January 11, 2023 motion, Plaintiff states that in case 1:21-cv-01499-AWI-EPG,
District Judge Anthony W. Ishii severed claims, and ordered that the first opened new case
contain Claims III, IV, and V and that the second opened new case contain Claim VI. (Doc. 17 at
1.)

The Court notes that both new cases were opened the same day. Plaintiff contacted the
Clerk's Office "to ensure that it did not matter and that either new case could be chosen for the
III, IV, V claim group and the VI claim group respectively." (*Id.*). Plaintiff was told it should not
matter which in which case he filed each group of claims, "so the Plaintiff randomly chose to file
the new second amended complaint for severed claims III, IV and V in new case 1:22-cv-01540SKO and a second amended complaint for claim VI in new case 1:22-cv-01539." (*Id.*)

Plaintiff asks the Court to allow his claims to proceed this way, because if the Court
disagrees with Plaintiff's assessment, Plaintiff will need to "refile a second amended complaint in
1:22-cv-01539 also and let that judge know to consider claim III, IV and V instead of the
complaint the Plaintiff has already filed in that case for claims VI, and this all becomes very
confusing for all parties involved." (*Id.* at 1-2). Alternatively, Plaintiff asks the Court to allow
him to file the complaint he submitted in case 1:22-cv-01539 in this case, and that the Court
consider it timely. (*Id.* at 2.)

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Plaintiff's January 12, 2023 Notice

In his January 12, 2023 notice, Plaintiff apologizes and explains he "mistakenly read the case number incorrectly as to where the court was directing the clerk to pull in the second amended complaint from." (Doc. 18 at 1.) He "mistakenly thought that the Court was directing that the old second amended complaint from the original case 1:21-cv-01499-AWI-EPG was to be docketed," before he realized his error. (*Id.*) Plaintiff states his "motion not to switch' was indeed a moot point" and asks the Court to disregard it. (*Id.*)

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2 January 11, 2023 motion is moot—which the plaintiff acknowledges. 3 II. CONCLUSION AND ORDER 4 For the forgoing reasons, IT IS HEREBY ORDERED that Plaintiff's "Motion to the Court Not to Switch Claims Between Cases" (Doc. 17) is DENIED as MOOT. 6 IT IS SO ORDERED. 9 Dated: January 19, 2023_ /s/ Sheila 'K, Oberto_ UNITED STATES MAGISTRATE JUDGE 10 UNITED STATES MAGISTRATE JUDGE 11 UNITED STATES MAGISTRATE JUDGE 12 UNITED STATES MAGISTRATE JUDGE 13 UNITED STATES MAGISTRATE JUDGE 14 UNITED STATES MAGISTRATE JUDGE 15 UNITED STATES MAGISTRATE JUDGE 16 UNITED STATES MAGISTRATE JUDGE 17 UNITED STATES MAGISTRATE JUDGE 18 UNITED STATES MAGISTRATE JUDGE 19 UNITED STATES MAGISTRATE JUDGE 10 UNITED STATES MAGISTRATE JUDGE 11 UNITED STATES MAGISTRATE JUDGE 12 UNITED STATES MAGISTRATE JUDGE 13 UNITED STATES MAGISTRATE JUDGE 14 UNITED STATES MAGISTRATE JUDGE 15 UNITED STATES MAGISTRATE JUDGE 16 UNITED STATES MAGISTRATE JUDGE 17		Case 1:22-cv-01540-JLT-SKO Document 19 Filed 01/19/23 Page 3 of 3			
3 III. CONCLUSION AND ORDER 4 For the forgoing reasons, IT IS HEREBY ORDERED that Plaintiff's "Motion to the 5 Court Not to Switch Claims Between Cases" (Doc. 17) is DENIED as MOOT. 6 IT IS SO ORDERED. 8 Dated: January 19, 2023 // List Sheila K, Oberto 9 UNITED STATES MAGISTRATE JUDGE 10 UNITED STATES MAGISTRATE JUDGE 11 UNITED STATES MAGISTRATE JUDGE 12 UNITED STATES MAGISTRATE JUDGE 13 UNITED STATES MAGISTRATE JUDGE 14 UNITED STATES MAGISTRATE JUDGE 15 UNITED STATES MAGISTRATE JUDGE 16 UNITED STATES MAGISTRATE JUDGE 17 UNITED STATES MAGISTRATE JUDGE 18 UNITED STATES MAGISTRATE JUDGE 19 UNITED STATES MAGISTRATE JUDGE 10 UNITED STATES MAGISTRATE JUDGE 11 UNITED STATES MAGISTRATE JUDGE 12 UNITED STATES MAGISTRATE JUDGE 13 UNITED STATES MAGISTRATE JUDGE 14 UNITED STATES MAGISTRATE JUDGE 15 UNITED STATES MAGISTRATE JUDGE 16 UNITED STATES MAGISTRATE JUDGE 17 UNITED	1	Because this Court's January 11, 2023 order corrected the technical violation, Plaintiff's			
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