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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EDWARD L. KEMPER,)	
)	2:08-cv-02777-GEB-DAD
Plaintiff,)	
)	
v.)	<u>ORDER</u> *
)	
FOLSOM CORDOVA UNIFIED SCHOOL)	
DISTRICT, a public entity,)	
)	
Defendant.)	

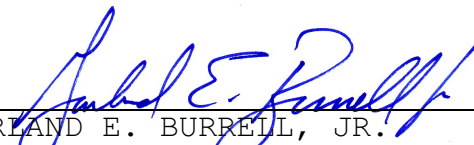
On September 23, 2011, Plaintiff filed a motion for leave to file a third amended complaint. However, the Final Pretrial Conference ("FPC") was held in this action on October 3, 2011, during which Plaintiff was asked about this motion and responded he was not then prepared to discuss the basis of the motion. As mentioned at the FPC, once a final pretrial order is filed, it controls the course of this action and that order could only be modified "to prevent manifest injustice." Fed. R. Civ. P. 16(e); see also Donovan v. Crisostomo, 689 F.2d 869, 875 (9th Cir. 1982) ("A pre-trial order . . . supersedes the pleadings under [Federal Rule of Civil Procedure] 16 and 'controls the subsequent course of the action.'" (internal citation omitted)); Byrd v. Guess, 137 F.3d 1126, 1132 (9th Cir. 1998) (stating absence a showing that "manifest injustice would result if the pretrial order is not modified"

* This matter is deemed suitable for decision without oral argument. E.D. Cal. R. 230(g).

1 the pretrial order shall not be modified). Since a Final Pretrial Order
2 was filed on October 5, 2011, that "final pretrial order . . .
3 'control[s] the subsequent course of the action.'" Rockwell Int'l Corp.
4 v. United States, 549 U.S. 457, 474 (2007). Therefore, Plaintiff's
5 September 23, 2011 motion in which Plaintiff seeks to amend a pretrial
6 scheduling order is misplaced since it fails to address the Final
7 Pretrial Order.

8 For the stated reasons, Plaintiff's motion filed on September
9 23, 2011 is DENIED.

10 Dated: October 5, 2011

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14 GARLAND E. BURRELL, JR.
15 United States District Judge
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