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

CHRISTOPHER LINDSAY,

Plaintiff,

No. 2:10-cv-02842 LKK KJN PS

v.

YOLANDA FRYSON, et al.,

Defendants.

ORDER

_____ /

On June 15, 2011, the undersigned entered an Order and Findings and Recommendations addressing defendant County of Yuba’s motion to dismiss and motion to strike. (Order and Findings & Recommendations, June 15, 2011, Dkt. No. 22.) On July 28, 2011, before United States Senior District Judge Lawrence K. Karlton ruled on the proposed findings and recommendations, plaintiff prematurely filed a First Amended Complaint (Dkt. No. 24). On August 11, 2011, Judge Karlton adopted the proposed findings and recommendations and, *in that order*, authorized plaintiff to file a First Amended Complaint. (Order, Aug. 11, 2011, Dkt. No. 25.)

Because plaintiff’s First Amended Complaint was prematurely filed before Judge Karlton entered his order actually authorizing the filing of an amended complaint, plaintiff’s First Amended Complaint filed on July 28, 2011, is disregarded and shall serve no further purpose in

1 this case. As provided in Judge Karlton's order, plaintiff shall have 30 days from the date of
2 Judge Karlton's August 11, 2011 order in which to file an amended complaint that is consistent
3 with Judge Karlton's order, as further explained in the now-adopted findings and
4 recommendations. (See Order, Aug. 11, 2011, at 3.) Plaintiff's further amended complaint
5 should conform to all requirements of Judge Karlton's order, except that *plaintiff's further*
6 *amended complaint shall be entitled "Second Amended Complaint."*

7 The undersigned notes that plaintiff's now-disregarded First Amended Complaint
8 re-alleged claims that have now been dismissed with prejudice by Judge Karlton. In preparing
9 his Second Amended Complaint, plaintiff should very carefully read Judge Karlton's order and
10 the undersigned's findings and recommendations, and should not re-allege any claims that have
11 been dismissed with prejudice or for which plaintiff lacks a good faith legal and factual basis.
12 Any claim re-alleged by plaintiff in the Second Amended Complaint that was already dismissed
13 with prejudice will be summarily stricken or disregarded.

14 For the reasons stated above, IT IS HEREBY ORDERED that:

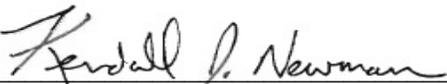
15 1. Plaintiff's First Amended Complaint filed on July 28, 2011 (Dkt. No. 24),
16 is disregarded and serves no purpose in this case.

17 2. Plaintiff shall timely file and serve an amended complaint that complies
18 with the requirements of Judge Karlton's August 11, 2011 order, but which is entitled "Second
19 Amended Complaint."

20 3. Each defendant shall file and serve a response to plaintiff's Second
21 Amended Complaint within 14 days after service of the Second Amended Complaint. See Fed.
22 R. Civ. P. 15(a)(3).

23 IT IS SO ORDERED.

24 DATED: August 12, 2011

25 
26 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE