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

BRIAN M. GLASGOW,

No. CIV S-10-2858-FCD-CMK

Plaintiff,

vs.

ORDER

BRUCE MUTTER,

Defendant.

_____ /

Plaintiff, proceeding in pro se, brings this civil action. Pending before the court is plaintiff's motion to amend the complaint (Doc. 8).

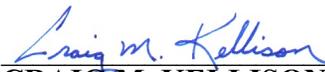
Federal Rule of Civil Procedure 15(a)(1) provides that "[a] party may amend its pleading once as a matter of course within (A) 21 days after serving it, or (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." Here, no response to the complaint has been filed. Therefore, pursuant to Rule 15(a)(1)(B), an amended complaint may be filed as of course up to within 21 days after service of a responsive pleading or Rule 12 motion to dismiss.

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1 Accordingly, leave of court is not required for plaintiff to file an amended
2 complaint at this time. The motion will therefore be denied as unnecessary. However, plaintiff
3 is informed that, as a general rule, an amended complaint supersedes the original complaint. See
4 Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992). Therefore, if plaintiff files an amended
5 complaint, the court cannot refer to the prior pleading in order to make plaintiff's amended
6 complaint complete. See Local Rule 15-220. An amended complaint must be complete in itself
7 without reference to any prior pleading. See id.

8 Pursuant to the above, IT IS HEREBY ORDERED that plaintiff's motion to
9 amend (Doc. 8) is denied as unnecessary.

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11 DATED: January 13, 2011

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13 **CRAIG M. KELLISON**
14 UNITED STATES MAGISTRATE JUDGE
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