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

GEORGIA A. CELENTANO,
Plaintiff,

vs.

No. CIV. S-11-1881 KJM CKD PS

SACRAMENTO REGIONAL
TRANSIT DISTRICT et al.,

Defendants.

ORDER

_____/

Plaintiff is proceeding pro se and in forma pauperis in this action. This proceeding was referred to the undersigned by E.D. Cal. L.R. 302(c)(21), pursuant to 28 U.S.C. § 636(b)(1).

A status (pre-trial scheduling) conference in this matter is currently set for March 21, 2012. (Dkt. No. 9.) On March 15, 2012, in response to the court’s March 9, 2012 order to either file a status report or a statement of consent to referral to the court’s Voluntary Dispute Resolution Program (“VDRP”), plaintiff filed a statement indicating that she consents to VDRP and requesting that the court defer scheduling the case until completion of the VDRP session. (Dkt. No. 23.) Because both parties have now requested referral to the VDRP program, the court will refer the case to VDRP and will vacate the status (pre-trial scheduling) conference currently

1 set for March 21, 2012.

2 Plaintiff also raises the issue of further amendment of her complaint. On October
3 24, 2011, the court ordered the U.S. Marshal to effectuate service of process on defendants with
4 plaintiff's original complaint. (Dkt. No. 8.) On January 10, 2012, plaintiff filed a first amended
5 complaint. (Dkt. No. 13.) Thereafter, on January 12, 2012, defendants filed an answer. (Dkt.
6 No. 14.) Plaintiff now indicates that she desires to file a second amended complaint to
7 incorporate additional claims, and states that she intends to file a motion for leave to amend as to
8 both the first amended complaint and the potential second amended complaint.

9 Rule 15 of the Federal Rules of Civil Procedure provides that "[a] party may
10 amend its pleading once as a matter of course within: (A) 21 days of serving it, or (B) if the
11 pleading is one to which a responsive pleading is required, 21 days after service of a responsive
12 pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier."
13 Fed. R. Civ. P. 15(a)(1). "In all other cases, a party may amend its pleading only with the
14 opposing party's written consent or the court's leave. The court should freely give leave when
15 justice so requires." Fed. R. Civ. P. 15(a)(2).

16 Here, plaintiff's first amended complaint was filed before defendants filed their
17 answer, and therefore no leave of court was required to file it. However, plaintiff does require
18 leave of court to file a second amended complaint. In the interests of judicial efficiency and
19 economy, the court will grant plaintiff leave to file a second amended complaint pursuant to Fed.
20 R. Civ. P. 15(a)(2). No discovery has yet been conducted and pre-trial deadlines have not been
21 set. Accordingly, the resulting prejudice to defendants is minimal. Nevertheless, plaintiff is
22 cautioned that further leave to amend will not be granted in the absence of good cause.

23 In addition, plaintiff is informed that the court cannot refer to a prior pleading in
24 order to make any second amended complaint complete. E.D. Cal. L.R. 220 requires that an
25 amended complaint be complete in itself without reference to any prior pleading. This is
26 because, as a general rule, an amended complaint supersedes the original complaint. See Loux v.
Rhay, 375 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files a second amended complaint, the

1 original and first amended complaints no longer serve any function in the case.

2 Additionally, in light of the fact that the case will be referred to VDRP, plaintiff
3 will be required to file and serve any second amended complaint within fourteen (14) days of the
4 date of service of this order, so as to allow for settled pleadings at the time of the VDRP session.
5 Defendants will be required to answer the second amended complaint within 21 days of service.

6 Accordingly, IT IS HEREBY ORDERED that:

7 1. The March 21, 2012 status (pre-trial scheduling) conference is vacated.

8 2. Plaintiff is granted leave to serve and file a second amended complaint within
9 fourteen (14) days of the date of service of this order. Defendants shall answer the second
10 amended complaint within 21 days of service with the second amended complaint. No further
11 amendment to pleadings is permitted except with leave of court, good cause having been shown.

12 3. This case is referred to the Voluntary Dispute Resolution Program (“VDRP”).

13 4. The parties are directed to review the requirements of the Program outlined in
14 E.D. Cal. L.R. 271 and shall contact the court’s VDRP coordinator, Suejean Park, within
15 fourteen (14) days of the date of service of this order to initiate the process of selecting a neutral.
16 The VDRP coordinator may be contacted by telephone at (916) 930-4278 or by e-mail at
17 SPark@caed.uscourts.gov.

18 5. The parties shall inform the court within 120 days of the date of service of this
19 order whether the program successfully resolved the case. The court will then set a further status
20 conference if necessary.

21 6. The Clerk of Court shall serve a copy of this order on the VDRP coordinator.

22 Dated: March 19, 2012

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24 _____
25 CAROLYN K. DELANEY
26 UNITED STATES MAGISTRATE JUDGE

CKD/5
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