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

DAVID LEE WHITE,  
Plaintiff, No. 2:12-cv-1552 EFB P  
vs.  
STATE OF CALIFORNIA,  
Defendant. ORDER

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Plaintiff is a state prisoner proceeding without counsel and in forma pauperis in this civil action. Plaintiff commenced this action with a complaint on March 14, 2012. Dckt. No. 1. Thereafter, he re-filed one page of the original complaint, along with a new page including a “statement of cause of action.” Dckt. No. 4. He then submitted a third filing purporting to add exhibits to his original complaint. Dckt. No. 5. Plaintiff also requested leave to proceed in forma pauperis. Dckt. No. 3.

**I. Request to Proceed In Forma Pauperis**

Plaintiff has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. Dckt. No. 3. Plaintiff’s application makes the showing required by 28 U.S.C. § 1915(a)(1) and (2). Accordingly, by separate order, the court directs the agency having custody of plaintiff to collect and forward the appropriate monthly payments for the filing fee as set forth in 28 U.S.C. § 1915(b)(1) and (2).

1 **II. The Complaint and Related Filings**

2 It appears from plaintiff's multiple filings that he wishes to amend or add to his  
3 complaint in a piecemeal fashion through separate filings. Rule 15(a)(1) of the Federal Rules of  
4 Civil Procedure provides that:

5 A party may amend its pleading once as a matter of course within:

6 (A) 21 days after serving it, or

7 (B) if the pleading is one to which a responsive pleading is  
8 required, 21 days after service of a responsive pleading or 21 days  
9 after service of a motion under Rule 12(b), (e), or (f), whichever is  
earlier.

10 When a plaintiff is allowed to amend his complaint, however, he must write or type the amended  
11 complaint so that it is complete in itself without reference to any earlier filed complaint. L.R.  
12 220. Thus, plaintiff may not amend his complaint in a piecemeal fashion by filing separate  
13 documents that are intended to be read together as a single complaint. If plaintiff wishes to add,  
14 omit, or correct information in the operative complaint, he must file an amended complaint that  
15 is complete within itself. This is because an amended complaint supersedes any earlier filed  
16 complaint, and once an amended complaint is filed, the earlier filed complaint no longer serves  
17 any function in the case. *See Forsyth v. Humana*, 114 F.3d 1467, 1474 (9th Cir. 1997) (the  
18 “amended complaint supersedes the original, the latter being treated thereafter as  
19 non-existent.”) (quoting *Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir. 1967)).

20 Although plaintiff's allegations are held to “less stringent standards than formal  
21 pleadings drafted by lawyers,” *Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per curiam), plaintiff  
22 is required to comply with the Federal Rules of Civil Procedure and the Local Rules of the  
23 Eastern District of California. *See McNeil v. United States*, 508 U.S. 106, 113 (1993)  
24 (procedural requirements apply to all litigants, including prisoners lacking access to counsel);  
25 L.R. 183(a) (“Any individual representing himself or herself without an attorney is bound by the  
26 Federal Rules of Civil or Criminal Procedure, these Rules, and all other applicable law.”).

1 Here, because plaintiff has not previously amended the complaint and no responsive  
2 pleading has been served in this action, plaintiff has leave to file an amended complaint as a  
3 matter of course. *See* Fed. R. Civ. P. 15(a)(1). Plaintiff may therefore file a single amended  
4 complaint that includes all information relevant to his claim(s).

5 Although the Federal Rules adopt a flexible pleading policy, a complaint must give fair  
6 notice and state the elements of the claim plainly and succinctly. *Jones v. Community Redev.*  
7 *Agency*, 733 F.2d 646, 649 (9th Cir. 1984). In any amended complaint, plaintiff must allege with  
8 at least some degree of particularity overt acts which defendants engaged in that support  
9 plaintiff's claim. *Id.* Any amended complaint shall clearly set forth the claims and allegations  
10 against each defendant, and must identify as a defendant only persons who personally  
11 participated in a substantial way in depriving him of a federal constitutional right. *Johnson v.*  
12 *Duffy*, 588 F.2d 740, 743 (9th Cir. 1978) (a person subjects another to the deprivation of a  
13 constitutional right if he does an act, participates in another's act or omits to perform an act he is  
14 legally required to do that causes the alleged deprivation). Any amended complaint must also  
15 contain a caption including the names of all defendants. Fed. R. Civ. P. 10(a).

16 Accordingly, IT IS HEREBY ORDERED that:

17 1. Plaintiff's request to proceed *in forma pauperis* is granted.

18 2. Plaintiff shall pay the statutory filing fee of \$350. All payments shall be collected in  
19 accordance with the notice to the California Department of Corrections and Rehabilitation filed  
20 concurrently herewith.

21 3. Plaintiff's requests to add exhibits and information to his complaint are denied.

22 4. Plaintiff is informed that he has leave to amend the complaint once as a matter of  
23 course.

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1           5. Within 30 days from the date of service of this order, plaintiff may file a First  
2 Amended Complaint using the court's form. The amended complaint, if any, must bear the  
3 docket number assigned to this case and be titled "First Amended Complaint."

4           6. The Clerk of the Court shall send one civil rights complaint form to plaintiff.

5 DATED: July 30, 2012.

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8 EDMUND F. BRENNAN  
9 UNITED STATES MAGISTRATE JUDGE  
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