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8	IN THE UNITED ST	ATES DISTRICT COURT
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	RICHARD V. ROOD,	No. 2:13-CV-0478-DMC-P
12	Plaintiff,	
13	V.	ORDER
14	GARY SWARTHOUT, et al.,	
15	Defendants.	
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17	Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to	
18	42 U.S.C. § 1983. Pending before the Court is Plaintiff's first amended complaint (ECF No. 33).	
19	Plaintiff alleges deliberate indifference to a serious injury—an alleged violation of his Eighth	
20	Amendment right against cruel and unusual pu	unishment.
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22	I. SCREENING REQUIREMENT AND STANDARD	
23	The Court is required to screen	complaints brought by prisoners seeking relief
24	against a governmental entity or officer or em	ployee of a governmental entity. See 28 U.S.C.
25	§ 1915A(a). The Court must dismiss a compl	aint or portion thereof if it: (1) is frivolous or
26	malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief	
27	from a defendant who is immune from such relief. See 28 U.S.C. § 1915A(b)(1), (2).	
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1 The Federal Rules of Civil Procedure require complaints contain a "...short and 2 plain statement of the claim showing that the pleader is entitled to relief." See McHenry v. 3 Renne, 84 F.3d 1172, 1177 (9th Cir. 1996) (quoting Fed. R. Civ. P. 8(a)(1)). Detailed factual 4 allegations are not required, but "[t]hreadbare recitals of the elements of a cause of action, 5 supported by mere conclusory statements, do not suffice." Ashcroft v. Iqbal, 556 U.S. 662, 678 6 (2009) (citing Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)). While a plaintiff's 7 allegations are taken as true, courts "are not required to indulge unwarranted inferences." Doe I v. Wal-Mart Stores, Inc., 572 F.3d 677, 681 (9th Cir. 2009) (internal quotation marks and citation 8 9 omitted). 10 Prisoners proceeding pro se in civil rights actions are entitled to have their 11 pleadings liberally construed and are afforded the benefit of any doubt. Hebbe v. Pliler, 627 F.3d 12 338, 342 (9th Cir. 2010) (citations omitted). To survive screening, Plaintiff's claims must be 13 facially plausible, which requires sufficient factual detail to allow the Court to reasonably infer 14 that each named defendant is liable for the misconduct alleged, Iqbal, 556 U.S. at 678 (quotation 15 marks omitted); Moss v. United States Secret Service, 572 F.3d 962, 969 (9th Cir. 2009). The 16 sheer possibility that a defendant acted unlawfully is not sufficient, and mere consistency with 17 liability falls short of satisfying the plausibility standard. Iqbal, 556 U.S. at 678 (quotation marks 18 omitted); Moss, 572F.3d at 969. 19 20 **II. PLAINTIFF'S ALLEGATIONS** 21 Plaintiff has named 46 defendants. Plaintiff contends that while he was housed at 22 the Shasta County Jail, Dr. Craig diagnosed him as having an ACL tear in his right knee and LDD 23 of his L3 and L6 vertebrae. Plaintiff was informed he would have to wait until he arrived at his 24 permanent housing facility before receiving treatment. Plaintiff claims the Defendants ignored 25 Dr. Craig's diagnosis and Plaintiff's medical complaints, and that their actions amount to deliberate indifference to a serious medical injury in violation of the Eighth Amendment. 26 27 /// 28 /// 2

1 Specifically, Plaintiff alleges Defendant S. Hannies was deliberately indifferent 2 because he was made aware of Plaintiff's diagnosis, current pain, and the possibility of continued 3 and worsened harm, but failed to alert proper medical personnel or to provide adequate medical 4 care. Plaintiff alleges Defendant R. Tan was deliberately indifferent because he was made aware of Plaintiff's diagnosis, current pain, and the possibility of continued and worsened harm, but 5 6 failed to conduct an adequate examination or properly treat Plaintiff's injury. Additionally, 7 Plaintiff alleges Tan was deliberately indifferent when he failed to treat Plaintiff's knee after his 8 surgery for his ACL tear. Plaintiff alleges Defendant Fontillas was deliberately indifferent 9 because he was made aware of Plaintiff's diagnosis, current pain, and the possibility of continued 10 and worsened harm, but failed to provide proper medical care—only taking Plaintiff's vitals 11 while failing to address his actual injury or pain. Plaintiff alleges Defendant Hardman was 12 deliberately indifferent because he was made aware of Plaintiff's diagnosis, current pain, and the 13 possibility of continued and worsened harm, but failed to alert the proper medical personnel or to 14 provide adequate medical care.

15 Further, Plaintiff alleges Defendant Win was deliberately indifferent because he 16 also was made aware of Plaintiff's diagnosis, current pain, and the possibility of continued and 17 worsened harm, but failed to provide adequate medical treatment, and instead determined that 18 Plaintiff did not have an ACL tear. Plaintiff alleges that Dr. Win provided inappropriate 19 medication that caused an upset stomach. Plaintiff alleges Defendant Kiez was deliberately 20 indifferent because he was made aware of Plaintiff's diagnosis, current pain, and the possibility of 21 continued and worsened harm, but failed to alert proper medical personnel or provide adequate 22 medical care. Plaintiff contends the medical personnel then began a campaign against Plaintiff 23 intended to bias other medical personnel against him.

Plaintiff alleges Defendant Kiez was deliberately indifferent because he was made aware
of Plaintiff's diagnosis, current pain, and the possibility of continued and worsened harm, but
failed to alert proper medical personnel or provide adequate medical care. Finally, Plaintiff
alleges Defendant Braunger was deliberately indifferent because he was made aware of Plaintiff's
diagnosis, current pain, and the possibility of continued and worsened harm, but ignored

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1	Plaintiff's medical request. Plaintiff alleges these events occurred between December 2010 and	
2	May 2011, when he received an MRI of his knee and the ACL tear was confirmed and surgery	
3	scheduled. Plaintiff provides no factual allegations related to any of the other 38 named	
4	Defendants.	
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6	III. ANALYSIS	
7	A. <u>Failure to Link</u>	
8	Plaintiff has named 46 Defendants, however, he has pleaded facts as to only eight.	
9	To state a claim under 42 U.S.C. § 1983, the plaintiff must allege an actual connection or link	
10	between the actions of the named defendants and the alleged deprivations. See Monell v. Dep't	
11	of Social Servs., 436 U.S. 658 (1978); Rizzo v. Goode, 423 U.S. 362 (1976). "A person	
12	'subjects' another to the deprivation of a constitutional right, within the meaning of § 1983, if he	
13	does an affirmative act, participates in another's affirmative acts, or omits to perform an act which	
14	he is legally required to do that causes the deprivation of which complaint is made." Johnson v.	
15	Duffy, 588 F.2d 740, 743 (9th Cir. 1978). Vague and conclusory allegations concerning the	
16	involvement of official personnel in civil rights violations are not sufficient. See Ivey v. Board of	
17	Regents, 673 F.2d 266, 268 (9th Cir. 1982). Rather, the plaintiff must set forth specific facts as to	
18	each individual defendant's causal role in the alleged constitutional deprivation. See Leer v.	
19	Murphy, 844 F.2d 628, 634 (9th Cir. 1988).	
20	Because, Plaintiff has failed to provide any facts linking the remaining 38	
21	Defendants with an alleged violation, Plaintiff's claims must be dismissed as to those Defendants.	
22	Plaintiff will, however, be provided leave to amend in order to plead sufficient facts.	
23	B. <u>Claims Against Hannies, Tan, Fontillas, Hardman, Win, Kiesz, Hernst,</u>	
24	<u>Braunger</u>	
25	Plaintiff allege Defendants Hannies, Tan, Fontillas, Hardman, Win, Kiesz, Hernst,	
26	Braunger were deliberately indifferent to his severe injury, amounting to a violation of the Eighth	
27	Amendment. Plaintiff has pleaded sufficient facts to the claim related to these Defendants to pass	
28	screening.	
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1	IV. AMENDING THE COMPLAINT
2	Because it is possible that some of the deficiencies identified in this order may be
3	cured by amending the complaint, plaintiff is entitled to leave to amend. See Lopez v. Smith, 203
4	F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc). Plaintiff is informed that, as a general rule, an
5	amended complaint supersedes the original complaint. See Ferdik v. Bonzelet, 963 F.2d 1258,
6	1262 (9th Cir. 1992). Therefore, if plaintiff amends the complaint, the court cannot refer to the
7	prior pleading in order to make plaintiff's amended complaint complete. See Local Rule 220. An
8	amended complaint must be complete in itself without reference to any prior pleading. See id.
9	If plaintiff chooses to amend the complaint, plaintiff must demonstrate how the
10	conditions complained of have resulted in a deprivation of plaintiff's constitutional rights. See
11	Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). The complaint must allege in specific terms how
12	each named defendant is involved, and must set forth some affirmative link or connection
13	between each defendant's actions and the claimed deprivation. See May v. Enomoto, 633 F.2d
14	164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).
15	Because the complaint appears to otherwise state cognizable claims, if no amended
16	complaint is filed within the time allowed therefor, the court will issue findings and
17	recommendations that the claims identified herein as defective be dismissed, as well as such
18	further orders as are necessary for service of process as to the cognizable claims.
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20	V. CONCLUSION
21	Accordingly, IT IS HEREBY ORDERED that plaintiff may file a second amended
22	complaint within 30 days of the date of service of this order.
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24	Dated: January 16, 2019
25	DENNIS M. COTA
26	UNITED STATES MAGISTRATE JUDGE
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