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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBIN LEE HOFFMAN,  
Plaintiff,  
v.  
JUSTIN JOURDAN, et al.,  
Defendants.

No. 2:14-cv-2736 MCE KJN P

ORDER

Plaintiff is a former county jail inmate, proceeding pro se, with this civil rights action seeking relief pursuant to 42 U.S.C. § 1983. On January 28, 2013, plaintiff filed an amended complaint as of right. Fed. R. Civ. P. Rule 15(a)(1).

On March 23, 2013, plaintiff filed a motion for leave to amend his complaint. Plaintiff's motion was not, however, accompanied by a proposed amended complaint. As a litigant proceeding in forma pauperis, plaintiff's pleadings are subject to evaluation by this court pursuant to the in forma pauperis statute. See 28 U.S.C. § 1915A. Because plaintiff did not submit a proposed amended complaint, the court is unable to evaluate it. Thus, plaintiff's motion is denied without prejudice to its renewal, accompanied by a proposed second amended complaint.

In her motion to amend, plaintiff seeks to amend to add John Does now identified by name, to name Super 8 motel employees as defendants, and to add an alleged wrongful eviction claim.

1 The Civil Rights Act under which this action was filed provides:

2 Every person who, under color of [state law] . . . subjects, or causes  
3 to be subjected, any citizen of the United States . . . to the  
4 deprivation of any rights, privileges, or immunities secured by the  
5 Constitution . . . shall be liable to the party injured in an action at  
6 law, suit in equity, or other proper proceeding for redress.

7 42 U.S.C. § 1983. The statute requires that there be an actual connection or link between the  
8 actions of the defendants and the deprivation alleged to have been suffered by plaintiff. See  
9 Monell v. Department of Social Servs., 436 U.S. 658 (1978) (“Congress did not intend § 1983  
10 liability to attach where . . . causation [is] absent.”); Rizzo v. Goode, 423 U.S. 362 (1976) (no  
11 affirmative link between the incidents of police misconduct and the adoption of any plan or policy  
12 demonstrating their authorization or approval of such misconduct). “A person ‘subjects’ another  
13 to the deprivation of a constitutional right, within the meaning of § 1983, if he does an  
14 affirmative act, participates in another’s affirmative acts or omits to perform an act which he is  
15 legally required to do that causes the deprivation of which complaint is made.” Johnson v. Duffy,  
16 588 F.2d 740, 743 (9th Cir. 1978).

17 Moreover, supervisory personnel are generally not liable under § 1983 for the actions of  
18 their employees under a theory of respondeat superior and, therefore, when a named defendant  
19 holds a supervisory position, the causal link between him and the claimed constitutional  
20 violation must be specifically alleged. See Fayle v. Stapley, 607 F.2d 858, 862 (9th Cir. 1979)  
21 (no liability where there is no allegation of personal participation); Mosher v. Saalfeld, 589 F.2d  
22 438, 441 (9th Cir. 1978) (no liability where there is no evidence of personal participation), cert.  
23 denied, 442 U.S. 941 (1979). Vague and conclusory allegations concerning the involvement of  
24 official personnel in civil rights violations are not sufficient. See Ivey v. Board of Regents, 673  
25 F.2d 266, 268 (9th Cir. 1982) (complaint devoid of specific factual allegations of personal  
26 participation is insufficient).

27 Plaintiff may join multiple claims if they are all against a single defendant. Fed. R. Civ.  
28 P. 18(a). Unrelated claims against different defendants must be pursued in multiple lawsuits.

29 The controlling principle appears in Fed. R. Civ. P. 18(a): ‘A party  
30 asserting a claim . . . may join, [] as independent or as alternate  
31 claims, as many claims . . . as the party has against an opposing

1 party.’ Thus multiple claims against a single party are fine, but  
2 Claim A against Defendant 1 should not be joined with unrelated  
3 Claim B against Defendant 2. Unrelated claims against different  
4 defendants belong in different suits, not only to prevent the sort of  
5 morass [a multiple claim, multiple defendant] suit produce[s], but  
6 also to ensure that prisoners pay the required filing fees-for the  
7 Prison Litigation Reform Act limits to 3 the number of frivolous  
8 suits or appeals that any prisoner may file without prepayment of  
9 the required fees. 28 U.S.C. § 1915(g).

10 George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007); see also Fed. R. Civ. P. 20(a)(2) (joinder of  
11 defendants not permitted unless both commonality and same transaction requirements are  
12 satisfied).

13 To the extent that the now-identified John Does were involved in the alleged excessive  
14 force claim raised against defendant Jourdan, plaintiff should include such individuals in any  
15 proposed second amended complaint. However, Super 8 motel employees do not act under color  
16 of state law. In addition, plaintiff’s claim of wrongful eviction is not a constitutional violation,  
17 and is not related to the Fourth Amendment excessive force claim raised against defendant  
18 Jourdan. Thus, plaintiff should not seek to amend to add such employees or the alleged eviction  
19 claim in any second amended complaint.

20 If plaintiff chooses to file a motion to amend accompanied by a proposed second amended  
21 complaint, plaintiff must demonstrate how the conditions complained of have resulted in a  
22 deprivation of plaintiff’s federal constitutional or statutory rights. See Ellis v. Cassidy, 625 F.2d  
23 227 (9th Cir. 1980). Also, the second amended complaint must allege in specific terms how each  
24 named defendant is involved. There can be no liability under 42 U.S.C. § 1983 unless there is  
25 some affirmative link or connection between a defendant’s actions and the claimed deprivation.  
26 Rizzo v. Goode, 423 U.S. 362 (1976); May v. Enomoto, 633 F.2d 164, 167 (9th Cir. 1980);  
27 Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978). Furthermore, vague and conclusory  
28 allegations of official participation in civil rights violations are not sufficient. Ivey v. Board of  
Regents, 673 F.2d 266, 268 (9th Cir. 1982).

29 In addition, plaintiff is informed that the court cannot refer to a prior pleading in order to  
30 make plaintiff’s second amended complaint complete. Local Rule 220 requires that an amended  
31 complaint be complete in itself without reference to any prior pleading. This requirement is

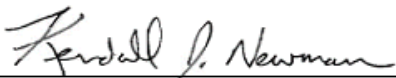
1 because, as a general rule, an amended complaint supersedes the original complaint. See Loux v.  
2 Rhay, 375 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files a second amended complaint, the  
3 original pleading no longer serves any function in the case. Therefore, in a second amended  
4 complaint, as in an original complaint, each claim and the involvement of each defendant must be  
5 sufficiently alleged. Thus, plaintiff should include her allegations as to defendant Jourdan in any  
6 proposed second amended complaint.

7 Because it appears plaintiff seeks to file a second amended complaint, the court will not  
8 order service of process on defendant Jourdan. However, because plaintiff has provided the  
9 documents for service of process for defendant Jourdan, plaintiff must file a motion to amend and  
10 proposed second amended complaint within thirty days. If plaintiff fails to file such motion, this  
11 case will proceed on plaintiff's amended complaint, and the court will order service of process on  
12 defendant Jourdan.

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. Plaintiff's motion for leave to amend (ECF No. 14) is denied without prejudice;
- 15 2. Within thirty days from the date of this order, plaintiff shall renew the motion to amend  
16 and submit a proposed second amended complaint; and
- 17 3. The Clerk of the Court is directed to send plaintiff the form for filing a civil rights  
18 complaint.

19 Dated: March 27, 2015

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KENDALL J. NEWMAN  
22 UNITED STATES MAGISTRATE JUDGE

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