

1 against defendants Avila, Christensen, Gideon, Greenleaf, and Ramos based on their failure to
2 ensure that facilities at High Desert State Prison could accommodate plaintiff's mobility issues
3 and by discounting the seriousness of his medical issues. ECF No. 49 at 5-12. This claim
4 recounts numerous incidents of purportedly inadequate medical attention occurring over two
5 years - June 2016 to June 2018. *Id.* These incidents are factually disparate and thus, even if the
6 complaint raised no other claims, it would be inappropriate to litigate these assorted incidents in a
7 single case.

8 In his second claim, plaintiff alleges that defendant Bryers failed to protect him from
9 attacks by other inmates and, indeed, conspired with other, unnamed officers to have plaintiff
10 attacked. *Id.* at 14-15. Plaintiff alleges that Bryers' actions were undertaken in retaliation for
11 plaintiff's filing of prison grievance appeals and the immediate law suit. *Id.* at 14.

12 Third, plaintiff claims that defendant Meraz used excessive force against him on June 30,
13 2017 by unnecessarily throwing him to the ground. *Id.* at 16.

14 Fourth, plaintiff alleges that defendants Ramos, Silkwood, Miranda, Ramos, Gideon,
15 Greenleaf, and Pickett violated his rights under the Americans with Disabilities Act by failing to
16 address the lack of disability accommodations at High Desert State Prison. *Id.* at 17-20.

17 As noted *supra*, plaintiff was warned that he could not proceed with multiple, factually
18 distinct claims against multiple defendants in contravention of Federal Rule of Civil Procedure
19 18. *See* Fed. R. Civ. P. 18(a); *see also* *George v. Smith*, 507 F. 3d 605, 607 (7th Cir. 2007)
20 (holding that "unrelated claims against different defendants belong in different suits. . ."). This
21 action simply cannot proceed with the various claims impermissibly joined in the complaint.

22 Leave to Amend

23 The court will afford plaintiff a final chance to amend. Any amended complaint must
24 comply with Federal Rule of Civil Procedure 18(a). That is, it must not contain multiple,

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1 unrelated claims against more than one defendant. Plaintiff may pick one¹ of the foregoing
2 claims and bring the others in separate suits.

3 Plaintiff is also cautioned that any amended complaint must identify as a defendant only
4 persons who personally participated in a substantial way in depriving him of his constitutional
5 rights. *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978) (a person subjects another to the
6 deprivation of a constitutional right if he does an act, participates in another's act or omits to
7 perform an act he is legally required to do that causes the alleged deprivation). Plaintiff may also
8 include any allegations based on state law that are so closely related to his federal allegations that
9 "they form the same case or controversy." See 28 U.S.C. § 1367(a).

10 The amended complaint must also contain a caption including the names of all defendants.
11 Fed. R. Civ. P. 10(a).

12 Plaintiff may not change the nature of this suit by alleging new, unrelated claims. *See*
13 *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007).

14 Any amended complaint must be written or typed so that it so that it is complete in itself
15 without reference to any earlier filed complaint. E.D. Cal. L.R. 220. This is because an amended
16 complaint supersedes any earlier filed complaint, and once an amended complaint is filed, the
17 earlier filed complaint no longer serves any function in the case. *See Forsyth v. Humana*, 114
18 F.3d 1467, 1474 (9th Cir. 1997) (the "'amended complaint supersedes the original, the latter
19 being treated thereafter as non-existent.'" (quoting *Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir.
20 1967)).

21 Any amended complaint should be as concise as possible in fulfilling the above
22 requirements. Fed. R. Civ. P. 8(a). Plaintiff should avoid the inclusion of procedural or factual
23 background which has no bearing on his legal claims. He should also take pains to ensure that his
24 amended complaint is as legible as possible. This refers not only to penmanship, but also spacing
25 and organization. Plaintiff should carefully consider whether each of the defendants he names
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27 ¹ Plaintiff is the master of his complaint and the manner in which he prioritizes these
28 claims is known only to him. Thus, the court will not arbitrarily select one of the four to proceed.
The other unrelated claims must proceed in separate actions.

1 actually had involvement in the constitutional violations he alleges. A “scattershot” approach in
2 which plaintiff names dozens of defendants will not be looked upon favorably by the court.

3 Conclusion

4 Accordingly, it is ORDERED that:

5 1. Plaintiff’s second amended complaint (ECF No. 49) is dismissed with leave to
6 amend within 30 days of service of this order; and

7 2. Failure to comply with any part of this this order may result in dismissal of this
8 action.

9 DATED: May 22, 2019.

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11 EDMUND F. BRENNAN
12 UNITED STATES MAGISTRATE JUDGE
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