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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SEKAYI R. WHITE,
Plaintiff,
v.
FEDERAL DEPOSIT INSURANCE
CORPORATION,
Defendant.

No. 2:17-cv-1829 CKD P

ORDER

Plaintiff is a state prisoner proceeding pro se. He has filed a civil complaint seeking relief against the Federal Deposit Insurance Corporation (FDIC) and has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1) and plaintiff has consented to have all matters in this action before a United States Magistrate Judge. See 28 U.S.C. § 636(c).

Plaintiff has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a). Accordingly, the request to proceed in forma pauperis will be granted.

Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). By separate order, the court will direct the appropriate agency to collect twenty percent of the preceding month's income credited to plaintiff's prison trust account and forward it to the Clerk of the Court each time the amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

1 The court is required to screen complaints brought by prisoners seeking relief against a
2 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The
3 court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally
4 “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek
5 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2).

6 The main problem with plaintiff’s complaint is that he does not identify any claim against
7 the FDIC. While plaintiff identifies facts, the legal basis of any claim is not clear. Accordingly,
8 plaintiff’s complaint must be dismissed. However, the court will grant plaintiff leave to amend so
9 that he may identify an actionable claim.

10 Plaintiff is informed, as he was in the Western District of Missouri’s August 25, 2017
11 transfer order, that the Federal Tort Claims Act is applicable to any claim against the FDIC.
12 Plaintiff should review that Act, 28 U.S.C. 2671, et seq., make sure he has complied with the
13 provisions identified therein, and then describe his compliance in his amended complaint.

14 Plaintiff is informed that the court cannot refer to a prior pleading in order to make
15 plaintiff’s amended complaint complete. Local Rule 220 requires that an amended complaint be
16 complete in itself without reference to any prior pleading. This is because, as a general rule, an
17 amended complaint supersedes the original complaint. See Loux v. Rhay, 375 F.2d 55, 57 (9th
18 Cir. 1967). Once plaintiff files an amended complaint, the original pleading no longer serves any
19 function in the case. Therefore, in an amended complaint, as in an original complaint, each claim
20 and the involvement of each defendant must be sufficiently alleged.

21 In accordance with the above, IT IS HEREBY ORDERED that:

22 1. Plaintiff’s request for leave to proceed in forma pauperis (ECF No. 2) is granted.

23 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. All fees
24 shall be collected and paid in accordance with this court’s order to the Director of the California
25 Department of Corrections and Rehabilitation filed concurrently herewith.

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3. Plaintiff's complaint is dismissed.

4. Plaintiff is granted thirty days from the date of service of this order to file an amended complaint that complies with the requirements of this order, the Federal Tort Claims Act, the Federal Rules of Civil Procedure, and the Local Rules of Practice. The amended complaint must bear the docket number assigned this case and must be labeled "Amended Complaint." Failure to file an amended complaint in accordance with this order will result in a recommendation that this action be dismissed.

Dated: November 6, 2017



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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