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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CSPC DOPHEN CORPORATION,
Plaintiff,
v.
ZHIXIANG HU,
Defendant.

No. 2:17-cv-1895 MCE DB PS

ORDER

Defendant and counterclaimant, Dr. Zhixiang Hu, Ph.D., is proceeding in this action pro se. (ECF No. 68.) Accordingly, this action has been referred to the undersigned pursuant to Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1). On January 16, 2019, plaintiff filed a motion for leave to file a second amended complaint. (ECF No. 147.) On January 31, 2019, plaintiff filed a motion for leave to file a third amended complaint. (ECF No. 150.) Both motions are noticed for hearing before the undersigned on March 1, 2019. (ECF No. 161.)

However, on February 15, 2019, defendant filed a statement of non-opposition to plaintiff filing a third amended complaint. (ECF No. 165.) Therein, defendant notes that defendant did oppose plaintiff's proposed second amended complaint. (Id. at 2.) Defendant is advised that Local Rule 220 requires that any amended complaint be complete in itself without reference to prior pleadings. Thus, the third amended complaint will supersede all prior complaints. See Loux v. Rhay, 375 F.2d 55, 57 (9th Cir. 1967). Plaintiff's unopposed motion for leave to file a

1 third amended complaint will, therefore, be granted and plaintiff's will be ordered to file a true
2 copy of the proposed third amended complaint filed on January 31, 2019.¹ (ECF No. 150-2.)

3 Additionally, noticed for hearing before the undersigned on March 1, 2019, and March 8,
4 2019, are numerous discovery related motions and defendant's motion for leave to file a second
5 amended counterclaim. (ECF Nos. 149, 152, 154, 155-59.) However, on February 22, 2019,
6 defendant filed a proposed substitution of attorney Jack Duran, Jr. (ECF No. 167.) But it is
7 unclear if attorney Duran signed that document. And the document was not filed by attorney
8 Duran. The issue of whether defendant is proceeding pro se or through counsel must be decided
9 prior to the resolution of the pending motions. The hearing of these motions will, therefore, be
10 continued.

11 Accordingly, IT IS HEREBY ORDERED that:

12 1. Plaintiff's January 16, 2019 motion for leave to file a second amended complaint (ECF
13 No. 147) is denied as having been rendered moot;

14 2. Plaintiff's January 31, 2019 motion for leave to file a third amended complaint (ECF
15 No. 150) is granted;


16 3. Within fourteen days of the date of this order, plaintiff shall file a copy of the third
17 amended complaint which will serve as plaintiff's operative pleading;

18 4. The hearing of the motions set for March 1, 2019, and March 8, 2019, (ECF Nos. 149,
19 152, 154, 155-59), are continued to **March 22, 2019**; and

20 5. On or before **March 8, 2019**, any counsel substituting in on behalf of defendant Hu
21 shall file a Consent Order Granting Substitution of Attorney form along with a short declaration
22 addressing any need for additional time.

23 Dated: February 26, 2019

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DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

27
28 ¹ The true copy filed by plaintiff shall be formatted as a typical complaint and omit references to
edits from prior drafts.