

Leave to Amend

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

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

11 Plaintiff may not change the nature of this suit by alleging new, unrelated claims. *See*
12 *George*, 507 F.3d at 607. Nor, as mentioned above, may he bring unrelated claims against
13 multiple defendants. *Id.*

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
26 actually had involvement in the constitutional violations he alleges. A "scattershot" approach in
27 which plaintiff names dozens of defendants will not be looked upon favorably by the court.

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1 Conclusion

2 Accordingly, it is ORDERED that:

- 3 1. The September 23, 2021 findings and recommendations (ECF No. 6) are vacated;
- 4 2. Plaintiff's application to proceed in forma pauperis (ECF No. 7) is granted;
- 5 3. Plaintiff shall pay the statutory filing fee of \$350. All payments shall be collected
- 6 in accordance with the notice to the California Department of Corrections and
- 7 Rehabilitation filed concurrently herewith;
- 8 4. Plaintiff's complaint (ECF No. 1) is dismissed with leave to amend within 30 days
- 9 from the date of service of this order; and
- 10 5. Failure to comply with any part of this this order may result in dismissal of this
- 11 action.

12 DATED: November 8, 2021.

13 
EDMUND F. BRENNAN
14 UNITED STATES MAGISTRATE JUDGE

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