

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RONALD EVANS,

No. C 08-3329 MMC

Plaintiff,

**ORDER RE: PLAINTIFF’S REQUEST
FOR REASSIGNMENT; SETTING
DEADLINE FOR FILING MOTION TO
AMEND AND REMAND; CONTINUING
CASE MANAGEMENT CONFERENCE**

v.

CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC HEALTH,

Defendants.

Before the Court is plaintiff’s “Declination to Proceed Before a Magistrate Judge and Request for Reassignment to a Superior Court Judge,” filed September 22, 2008.¹

By said Request, plaintiff seeks to dismiss “in its entirety” his Amended Complaint, filed June 13, 2008, in which he pleads a single claim under Title VII, and to substitute in its place his original Complaint, filed May 9, 2008, in which he alleged only state law claims, and thereafter to have the case remanded to state court.

Because an amended complaint supercedes the original complaint and thus “renders it of no legal effect,” see, e.g., King v. Dogan, 31 F.3d 344, 346 (7th Cir. 1994), dismissal of the Amended Complaint herein would not serve the purpose for which plaintiff seeks such order, but, rather, would result in the dismissal of the action itself.

Consequently, if plaintiff wishes to amend his pleadings to allege only state law


¹ To the extent plaintiff declines to consent to the assignment of his case to a magistrate judge rather than a district judge, the request has been addressed by the reassignment of the above-titled action to the undersigned on September 25, 2008.

1 claims, with the goal of returning to state court, plaintiff must file, no later than **October 24,**
2 **2008**, a motion for leave to file a Second Amended Complaint and for remand, and must
3 attach to his motion a Proposed Second Amended Complaint in which he alleges his state
4 law claims.²

5 In light of the above, the Case Management Conference currently scheduled for
6 October 17, 2008 is hereby CONTINUED to November 21, 2008 at 10:30 a.m.

7 **IT IS SO ORDERED.**

8 Dated: October 2, 2008

9 
10 MAXINE M. CHESNEY
11 United States District Judge

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

² Plaintiff is hereby advised that his Second Amended Complaint must stand on its own as a new pleading, i.e., plaintiff may not simply seek to incorporate by reference therein all or part of his original Complaint.