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E-Filed 7/3/13

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

United States District Court
For the Northern District of California

JOHN L. TREADWAY,

Plaintiff,

v.

A. HEDGPETH, et al.,

Defendants.

No. C 13-2113 RS (PR)

ORDER REOPENING ACTION;

**ORDER DIRECTING PLAINTIFF TO
FILE AN AMENDED COMPLAINT**

_____ /

The action was dismissed because plaintiff failed to comply with the Court’s order to pay the filing fee or file an application to proceed *in forma pauperis* (“IFP”). Plaintiff since has filed an IFP application (Docket No. 5), which the Court construes as containing a motion to reopen the action. So construed, the motion is GRANTED. The action is REOPENED, and the Clerk is directed to amend the docket accordingly. The judgment (Docket No. 4) and the order of dismissal (Docket No. 3) are VACATED. **Plaintiff shall file an amended complaint on or before September 15, 2013.** The amended complaint must include the caption and civil case number used in this order (13-2113 RS (PR)) and the words FIRST AMENDED COMPLAINT on the first page. Because an amended complaint

No. C 13-2113 RS (PR)
ORDER REOPENING ACTION

1 completely replaces the previous complaints, plaintiff must include in his amended complaint
2 all the claims he wishes to present and all of the defendants he wishes to sue. *See Ferdik v.*
3 *Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992). Any claims not raised in the amended
4 complaint will be deemed waived. Plaintiff may not incorporate material from the prior
5 complaint by reference. Failure to file an amended complaint in accordance with this order
6 will result in dismissal of this action with prejudice for failure to prosecute. *See Fed. R. Civ.*
7 *P. 41(b)*. **No extensions of time will be granted, owing to the large period of time**
8 **afforded plaintiff.** The Clerk shall terminate Docket No. 5.

9 **IT IS SO ORDERED.**

10 DATED: July 3, 2013

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12 RICHARD SEEBORG
13 United States District Judge
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