

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

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GODWIN GAMELI LADZEKPO,
Plaintiff,
v.
M. HRITZ, et al.,
Defendants.

Case No. [4:16-cv-01695-KAW](#)
**SECOND ORDER TO SHOW CAUSE;
ORDER CONTINUING 2/28/17 CASE
MANAGEMENT CONFERENCE**
Re: Dkt. Nos. 30, 32

On October 28, 2016, the Court granted Defendant’s motion to dismiss with leave to amend. (Dkt. No. 30.) The Court ordered Plaintiff to file a first amended complaint no later than December 16, 2016. *Id.* Plaintiff did not file an amended complaint. On January 25, 2017, the Court issued an order show to cause to Plaintiff to both file the first amended complaint on or before February 17, 2017, and to explain why he did not timely file his amended complaint and why this case should not be dismissed for failure to prosecute. (Dkt. No. 32.) To date, Plaintiff has done neither.

Accordingly, the Court issues a **SECOND ORDER TO SHOW CAUSE**, and Plaintiff is ordered to file the first amended complaint on or before **March 24, 2017**, and respond to this order by explaining why he did not timely file his amended complaint or respond to the January 25, 2017 order to show cause, and why this case should not be dismissed for failure to prosecute. The first amended complaint and the response to the second order to show cause should be filed separately. **Failure to timely respond to the second order to show cause and file the first amended complaint will result in this case being dismissed without prejudice for failure to prosecute.**

In amending his complaint, Plaintiff may wish to consult a manual the court has adopted to assist pro se litigants in presenting their case. This manual, and other free information for pro se

1 litigants, is available online at: <http://cand.uscourts.gov/proselitigants>. Plaintiff may also wish to
2 contact the Federal Pro Bono Project's Help Desk—a free service for pro se litigants—by calling
3 (415) 782-8982.

4 Plaintiff should be aware that an amended complaint will supersede or replace the original
5 complaint, and the original complaint will thereafter be treated as nonexistent. *Armstrong v. Davis*,
6 275 F.3d 849, 878 n.40 (9th Cir. 2001), abrogated on other grounds by *Johnson v. Cal.*, 543 U.S.
7 499 (2005). The first amended complaint must, therefore, be complete, in itself, without reference
8 to the prior or superseded pleading, as “[a]ll causes of action alleged in an original complaint
9 which are not alleged in an amended complaint are waived.” *King v. Atiyeh*, 814 F.2d 565, 567
10 (9th Cir. 1987) (citations omitted).

11 In light of the foregoing, the Court continues the February 28, 2017 case management
12 conference to April 18, 2017. Case management statements are due April 11, 2017.

13 IT IS SO ORDERED.

14 Dated: February 23, 2017

15 
16 KANDIS A. WESTMORE
17 United States Magistrate Judge