

1
2
3
4
5
6
7
8
9
10
11
12

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JASON ARTHUR ALTHEIDE,)
)
 Plaintiff,)
)
 v.)
)
 THOMAS KLEUCZAR et al.,)
)
 Defendants.)
 _____)

2:16-cv-02272-RFB-NJK

ORDER

I. DISCUSSION

On September 27, 2016, Plaintiff, an inmate at the Nye County Detention Center, initiated this lawsuit by submitting a 42 U.S.C. § 1983 civil rights complaint. (ECF No. 1-1). After submitting a fully complete application to proceed *in forma pauperis* (ECF No. 4), Plaintiff submitted a motion to amend/correct spelling of defendant’s name, a motion to add additional defendants to claim, a motion to amend petition, a motion to provide trust financial statements, and a motion for leave to file and copy request. (ECF No. 5, 6, 7, 8, 9).

The Court interprets the motion to amend/correct spelling of defendant’s name, the motion to add additional defendants to claim, the motion to amend petition, and the motion for leave to file and copy request as one motion for leave to file an amended complaint. The Court grants Plaintiff’s motion to amend his complaint. If Plaintiff chooses to file an amended complaint he is advised that an amended complaint supersedes (replaces) the original complaint and, thus, the amended complaint must be complete in itself. *See Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that “[t]he fact that a party was named in the original complaint is irrelevant; an amended pleading supersedes the original”); *see also Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012)

1 (holding that for claims dismissed with prejudice, a plaintiff is not required to reallege such
2 claims in a subsequent amended complaint to preserve them for appeal). Plaintiff's amended
3 complaint must contain all claims, defendants, and factual allegations that Plaintiff wishes to
4 pursue in this lawsuit. Moreover, Plaintiff must file the amended complaint on this Court's
5 approved prisoner civil rights form and it must be entitled "First Amended Complaint."

6 The Court notes that if Plaintiff chooses to file an amended complaint, Plaintiff shall file
7 the amended complaint within 30 days from the date of entry of this order. If Plaintiff chooses
8 not to file an amended complaint, the Court will screen the original complaint (ECF No. 1-1).

9 The Court denies Plaintiff's motion to provide trust financial statements as moot. (ECF
10 No. 8). The Court finds that Plaintiff has submitted a fully complete application to proceed *in*
11 *forma pauperis* at ECF No. 4.

12 **II. CONCLUSION**

13 For the foregoing reasons, IT IS ORDERED that the motion to amend/correct spelling
14 of defendant's name (ECF No. 5), the motion to add additional defendants to claim (ECF No.
15 6), the motion to amend petition (ECF No. 7), and the motion for leave to file and copy request
16 (ECF No. 9) are construed as one motion for leave to file an amended complaint. The Court
17 GRANTS the motion for leave to file an amended complaint.

18 IT IS FURTHER ORDERED that, if Plaintiff chooses to file an amended complaint,
19 Plaintiff shall file the amended complaint within 30 days from the date of entry of this order.

20 IT IS FURTHER ORDERED that the Clerk of the Court shall send to Plaintiff the
21 approved form for filing a § 1983 complaint, instructions for the same, and a copy of his
22 original complaint (ECF No. 1-1). If Plaintiff chooses to file an amended complaint, he must
23 use the approved form and he shall write the words "First Amended" above the words "Civil
24 Rights Complaint" in the caption.

25 IT IS FURTHER ORDERED that, if Plaintiff chooses not to file an amended complaint,
26 the Court will screen the original complaint (ECF No. 1-1).

27 ///

28 ///

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

IT IS FURTHER ORDERED that the motion to provide trust financial statements (ECF No. 8) is DENIED as moot.

DATED: This 17th day of October, 2016.



NANCY J. KOPPE
United States Magistrate Judge