

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 BRICK SHALAKO HOUSTON, JR,)
4)
5 Plaintiff,)
6 vs.)
7 WEIR, et al.,)
8 Defendants.)

Case No.: 2:18-cv-00033-GMN-NJK

ORDER

9 Pending before the Court is the Second Amended Complaint, (ECF No. 14), filed by pro
10 se Plaintiff Brick Shalako Houston, Jr ("Plaintiff").¹ As Plaintiff filed this complaint without
11 leave from the Court, the Court construes this filing as a Motion for Leave to File a Second
12 Amended Complaint. For the reasons stated herein, Plaintiff's Motion for Leave is
13 GRANTED.

14 I. DISCUSSION

15 This case arises from alleged civil rights deprivations that occurred while Plaintiff was a
16 pretrial detainee at the Clark County Detention Center ("CCDC"). On November 8, 2018, the
17 Court entered an order screening Plaintiff's First Amended Complaint. (Screening Order, ECF
18 No. 4). In the Screening Order, the Court permitted certain claims to move forward while
19 dismissing the remaining claims either with or without prejudice.

20 On January 2, 2019, Plaintiff filed his Second Amended Complaint, in which he
21 attempts to cure deficiencies raised in the Screening Order. (Mot. for Leave, ECF No. 14). An
22 amended complaint supersedes the original complaint, and therefore the amended complaint
23 must be complete in itself. See Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc., 896 F.2d
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25 ¹ In light of Plaintiff's status as a pro se litigant, the Court has liberally construed his filings, holding them to
standards less stringent than formal pleadings drafted by attorneys. See Erickson v. Pardus, 551 U.S. 89, 94
(2007).

1 1542, 1546 (9th Cir. 1989) (holding that “[t]he fact that a party was named in the original
2 complaint is irrelevant; an amended pleading supersedes the original”). Here, Plaintiff’s
3 Second Amended Complaint merely incorporates the prior complaint by reference and thus
4 fails to meet this standard. The Court therefore strikes the Second Amended Complaint from
5 the record.

6 Nonetheless, to the extent Plaintiff seeks leave to cure the deficiencies raised in the
7 Screening Order, the Court grants Plaintiff thirty (30) days from the date this Order is entered
8 to file a renewed second amended complaint. The Court notes, however, that Plaintiff should
9 file the second amended complaint only if he is able to cure the deficiencies stated in the
10 Screening Order.

11 Furthermore, if Plaintiff chooses to file a second amended complaint, the Court
12 reemphasizes that such a filing supersedes the original complaint, and therefore the second
13 amended complaint must be complete in itself. See *Hal Roach Studios, Inc.*, 896 F.2d at 1546.
14 To meet this requirement, Plaintiff’s second amended complaint must contain all claims,
15 defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit. Furthermore,
16 the Court notes that Plaintiff’s second amended complaint shall be subject to the screening
17 requirements of 28 U.S.C. § 1915A. If Plaintiff chooses not to file a second amended
18 complaint, the action will move forward on the remaining claims in Plaintiff’s First Amended
19 Complaint as stated in the Screening Order.

20 **II. CONCLUSION**

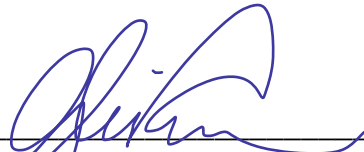
21 **IT IS HEREBY ORDERED** that Plaintiff’s Motion for Leave to File a Second
22 Amended Complaint, (ECF No. 14), is **GRANTED consistent with the foregoing.**

23 **IT IS FURTHER ORDERED** that Plaintiff shall have thirty (30) days to file a second
24 amended complaint curing the deficiencies outlined in the Screening Order.

1 **IT IS FURTHER ORDERED** that the Clerk of Court shall send to Plaintiff the
2 approved form for filing a § 1983 complaint, instructions for the same, a copy of the Screening
3 Order, (ECF No. 4), and a copy of his First Amended Complaint, (ECF No. 5).

4 **IT IS FURTHER ORDERED** that if Plaintiff chooses to file a second amended
5 complaint, he must use the approved form and write the words “Second Amended” above the
6 words “Civil Rights Complaint” in the caption. The second amended complaint will be subject
7 to the screening requirements of 28 U.S.C. § 1915A.

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9 **DATED** this 18 day of June, 2019.

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13 Gloria M. Navarro, Chief Judge
14 United States District Judge
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