

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ROOSEVELT MAURICE HOGG,

Plaintiff,

v.

COX et al.,

Defendants.

3:15-cv-00158-RCJ-WGC

ORDER

I. DISCUSSION

On July 6, 2015, this Court issued a screening order dismissing the federal claim, with prejudice, as amendment would be futile, and dismissing the state law claims for lack of supplemental jurisdiction. (ECF No. 4 at 5). On July 22, 2015, Plaintiff appealed. (ECF No. 8).

On August 5, 2016, the Ninth Circuit Court of Appeals held that this Court had properly dismissed Plaintiff's due process claim but had abused its discretion in dismissing the complaint "without a single opportunity to amend." (ECF No. 15 at 2). The Ninth Circuit reversed the judgment and remanded back to this Court to give Plaintiff an opportunity to file an amended complaint. (*Id.*).

In light of the Ninth Circuit's memorandum disposition, Plaintiff is granted leave to file an amended complaint to cure the deficiencies of the 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

1 Cir. 2012) (holding that for claims dismissed with prejudice, a plaintiff is not required to
2 reallege such claims in a subsequent amended complaint to preserve them for appeal).
3 Plaintiff's amended complaint must contain all claims, defendants, and factual allegations that
4 Plaintiff wishes to pursue in this lawsuit. Moreover, Plaintiff must file the amended complaint
5 on this Court's approved prisoner civil rights form and it must be entitled "First Amended
6 Complaint."

7 The Court notes that if Plaintiff chooses to file an amended complaint curing the
8 deficiencies as outlined in the Court's screening order (ECF No. 4), Plaintiff shall file the
9 amended complaint within 30 days from the date of entry of this order. If Plaintiff chooses not
10 to file an amended complaint curing the stated deficiencies, the Court shall dismiss this action,
11 with prejudice, for failure to state a claim.

12 **II. CONCLUSION**

13 For the foregoing reasons, IT IS ORDERED that if Plaintiff chooses to file an amended
14 complaint curing the deficiencies of his complaint, as outlined in the Court's screening order
15 (ECF No. 4), Plaintiff shall file the amended complaint **within 30 days** from the date of entry
16 of this order.

17 IT IS FURTHER ORDERED that the Clerk of the Court shall send to Plaintiff the
18 approved form for filing a § 1983 complaint, instructions for the same, a copy of his original
19 complaint (ECF No. 5), a copy of the screening order (ECF No. 4), and a copy of the Ninth
20 Circuit's memorandum disposition (ECF No. 15). If Plaintiff chooses to file an amended
21 complaint, he must use the approved form and he shall write the words "First Amended" above
22 the words "Civil Rights Complaint" in the caption.

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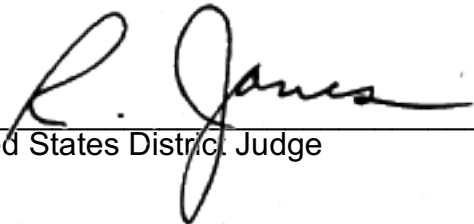
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1 IT IS FURTHER ORDERED that if Plaintiff fails to file an amended complaint curing the
2 deficiencies outlined in the screening order, this action shall be dismissed, with prejudice, for
3 failure to state a claim.

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5 DATED: This 18th day of October, 2016.

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9 United States District Judge
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