



1 18 U.S.C. § 1595 are time-barred. The court expects that defendants will agree to any  
2 amendment(s) that will cure the alleged defects.

3 Based on the foregoing, IT IS ORDERED THAT:

4 1. Defendant's Motion to Dismiss First Amended Complaint (**Document No. 21**) is  
5 **granted**, and the hearing on defendant's Motion, currently set for January 20, 2022, is hereby  
6 **vacated**.

7 2. The First Amended Complaint is **dismissed with leave to amend**.

8 3. If plaintiff still wishes to pursue this action, he is granted until **January 13, 2022**, to  
9 file a Second Amended Complaint attempting to cure, to the extent he believes is warranted by  
10 existing law, the alleged defects outlined in defendants' Motion.

11 4. The Second Amended Complaint must be labeled "Second Amended Complaint,"  
12 filed in compliance with Local Rule 3-2 and contain the case number assigned to the case, i.e.,  
13 Case No. CV 14-2818 FMO (PLAx). In addition, plaintiff is informed that the court cannot refer to  
14 a prior pleading in order to make his Second Amended Complaint complete. Local Rule 15-2  
15 requires that an amended pleading be complete in and of itself without reference to any prior  
16 pleading. This is because, as a general rule, an amended pleading supersedes the original  
17 pleading. See Ramirez v. Cnty. of San Bernardino, 806 F.3d 1002, 1008 (9th Cir. 2015) ("It is  
18 well-established in our circuit that an amended complaint supersedes the original, the latter being  
19 treated thereafter as non-existent. In other words, 'the original pleading no longer performs any  
20 function[.]'" (citations and internal quotation marks omitted).

21 5. Plaintiff is cautioned that failure to timely file a Second Amended Complaint shall  
22 result in this action being dismissed without prejudice for failure to prosecute and/or failure to  
23 comply with a court order. See Fed. R. Civ. P. 41(b); Link v. Wabash R.R. Co., 370 U.S. 626,  
24 629-30, 82 S.Ct. 1386, 1388 (1962).

25 6. Any defendant shall file its Answer to the Second Amended Complaint or a motion  
26 pursuant to Fed. R. Civ. P. 12 no later than **January 27, 2022**.

