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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Alex Aguilar,)	No. CV 09-1198 PHX-NVW (JRI)
Plaintiff,)	ORDER
v.)	
Lewis, et al.,)	
Defendants.)	

Pending before the court is the Report and Recommendation (“R&R”) of Magistrate Judge Irwin (Doc. # 13) recommending that the First Amended Complaint be dismissed with leave to file a further amended complaint. The Magistrate Judge advised the parties that they had ten days to file objections to the R&R. (R&R at 4 (citing 28 U.S.C. § 636(b)). No objections were filed; however, on September 24, 2009, Plaintiff filed a Motion to Amend Complaint and lodged a proposed Second Amended Complaint. (Docs. # 14, 15.)

The court has reviewed the R&R and finds that it is well taken. The court will accept the R&R and dismiss the First Amended Complaint with leave to file the Second Amended Complaint, subject to further screening by the Court. (Doc. # 15.) *See* 28 U.S.C. § 636(b)(1) (stating that the district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate”).

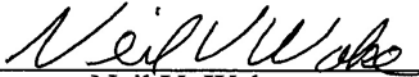
IT IS THEREFORE ORDERED that Report and Recommendation of the Magistrate Judge (Doc. #13) is accepted.

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IT IS FURTHER ORDERED that the First Amended Complaint (Doc. # 12) is dismissed for failure to state a claim upon which relief can be granted.

IT IS FURTHER ORDERED granting the Motion to Amend Complaint (Doc. 14). The Clerk is directed to file the Second Amended Complaint (Doc. #15), subject to further screening by the Court.

DATED this 28th day of September, 2009.



Neil V. Wake
United States District Judge