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UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

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9   DALE OWEN DUSTIN,   CASE NO. 1:05-cv-00768-LJO-YNP PC

10   Plaintiff,   ORDER DENYING MOTION

11   v.   (Doc. 42.)

12   G. GALAZA, et al.,   and

13   Defendants.   ORDER VACATING FINDINGS AND
                                                    RECOMMENDATIONS
14
                                                    (Doc. 41.)
15
     _____/
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17   Plaintiff Dale Owen Dustin ("Plaintiff") is a state prisoner proceeding pro se and in forma

18   pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On September 8, 2009, Plaintiff

19   filed a pleading entitled "Memorandum of Understanding, Motion for Extension of Time Request

20   for Specific Yes or No Response in Re Return Copy." Plaintiff's motion requests an extension of

21   time to file his second amended complaint because he was unable to obtain copy service at his

22   prison. Plaintiff was granted an extension of time and filed his second amended complaint on

23   October 26, 2009. (Docs. #44, 45.) Therefore, Plaintiff's motion will be denied as moot.

24   On September 9, 2009, the Court issued a findings and recommendations recommending that

25   this action be dismissed due to Plaintiff's failure to file his second amended complaint on time.

26   (Doc. #41.) The findings and recommendations was issued before Plaintiff's motion for an

27   extension of time appeared on the docket. Plaintiff has since filed his second amended complaint.

28   As such, the findings and recommendations will be vacated.

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1   Based on the foregoing, it is HEREBY ORDERED that:

2   1.   Plaintiff's motion for extension of time, filed on September 8, 2009, is DENIED as

3   moot; and

4   2.   The Court's September 9, 2009 findings and recommendations is VACATED.

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6   IT IS SO ORDERED.

7   **Dated:**   **April 13, 2010**   **/s/ Sandra M. Snyder**
                                     UNITED STATES MAGISTRATE JUDGE

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