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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL VALDEZ,

Plaintiff,

vs.

1: 08 CV 01572 LJO YNP (SMS) PC

ORDER

DEAN HOOVER, et al.,

Defendants.

On October 9, 2009, findings and recommendations were entered, recommending dismissal of this action for Plaintiff’s failure to oppose the motion to dismiss. On October 23, 2009, Plaintiff filed a document titled as an opposition to the motion. Plaintiff seeks to have this action heard “on the merits” and not dismissed “on a technicality.” Plaintiff also requests that should this action be dismissed, it should be dismissed with leave to amend.

Defendants seek dismissal of this action on the ground that it is time-barred by the applicable statute of limitations. Plaintiff’s response to the findings and recommendations fails to address this argument. Plaintiff is advised that should Defendants’ motion be granted, this action be dismissed with prejudice as time-barred, and without leave to amend. The Court will grant Plaintiff a thirty day extension of time to file an opposition that addresses the arguments set forth in the motion to dismiss.

1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The October 9, 2009, recommendation of dismissal is vacated.

3 2. Plaintiff is granted an extension of time of thirty days from the date of service of this
4 order in which to file an opposition to the motion to dismiss.

5
6 IT IS SO ORDERED.

7 **Dated:** November 13, 2009

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE