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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

BARRY LAMON,

Plaintiff,

v.

B. AMRHEIN, et al.,

Defendants.

1:12-cv-00296-AWI-GSA-PC

ORDER VACATING FINDINGS AND  
RECOMMENDATIONS OF JANUARY 11,  
2013  
(Doc. 12.)

ORDER DENYING PLAINTIFF'S REQUEST  
TO STAY ACTION  
(Doc. 13.)

ORDER GRANTING EXTENSION OF TIME  
FOR PLAINTIFF TO FILE AMENDED  
COMPLAINT

NINETY DAY DEADLINE

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**I. BACKGROUND**

Barry Lamon ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on February 28, 2012. (Doc. 1.) On January 11, 2013, the Court entered findings and recommendations, recommending that this action be dismissed for failure to state a claim, based on Plaintiff's failure to file an amended complaint in compliance with the Court's order of December 7, 2012. (Doc. 12.)

///

1 On January 29, 2013, Plaintiff filed objections to the findings and recommendations. (Doc.  
2 13.) Plaintiff asserts that he was unable to file an amended complaint because he was hospitalized  
3 for treatment of a life-threatening illness on November 22, 2012, subsequently transferred to the  
4 California Medical Facility in Vacaville, California, and presently remains there for treatment,  
5 without access to his legal materials. Plaintiff requests a stay of the proceedings in this action for  
6 ninety days, or until he is able to file an amended complaint.

7 **II. REQUEST FOR STAY OF ACTION**

8 The Court does not lightly stay litigation, due to the possibility of prejudice to defendants.  
9 Although the Court recognizes that Plaintiff is challenged by his health concerns and hospitalization,  
10 Plaintiff's only remedy is not a stay of this action. In the alternative, good cause appearing, Plaintiff  
11 shall be granted ninety days in which to file an amended complaint pursuant to the Court's order of  
12 December 7, 2012. Should Plaintiff require a further extension of time, he should file a motion  
13 before the current deadline expires.

14 **III. CONCLUSION**

15 Accordingly, IT IS HEREBY ORDERED that:

- 16 1. Plaintiff's request to stay this action, filed on January 29, 2013, is DENIED; and
- 17 2. Good cause appearing, Plaintiff is GRANTED ninety days from the date of service  
18 of this order in which to file an amended complaint pursuant to the Court's order of  
19 December 7, 2012.

20  
21 IT IS SO ORDERED.

22 **Dated: January 30, 2013**

**/s/ Gary S. Austin**  
UNITED STATES MAGISTRATE JUDGE