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

STEVE WILHELM,) Case No.: 1:12-cv-00386-AWI-SAB (PC)
Plaintiff,)
v.) ORDER VACATING FINDINGS AND
JEANNIE WOODFORD, et al.,) RECOMMENDATIONS ISSUED NOVEMBER 5,
Defendants.) 2013, GRANTING PLAINTIFF’S MOTION TO
) FILE LATE SECOND AMENDED COMPLAINT,
) AND DIRECTING CLERK OF COURT TO FILE
) SECOND AMENDED COMPLAINT LODGED
) NOVEMBER 6, 2013
)
) [ECF Nos. 23, 24, 25]

Plaintiff Steve Wilhelm is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On September 10, 2013, the undersigned dismissed Plaintiff’s first amended complaint for failure to state a claim upon which relief may be granted and ordered Plaintiff to file an amended complaint within thirty days. 28 U.S.C. § 1915A; 28 U.S.C. § 1915(e).

On September 24, 2013, Plaintiff filed a notice of appeal with the United States Court of Appeals for the Ninth Circuit. On October 23, 2013, Plaintiff’s appeal was dismissed by the Ninth Circuit.

Because Plaintiff failed to file a second amended complaint or otherwise responded to the Court’s order, the Court issued a recommendation to dismiss the action for failure to state a cognizable claim on November 5, 2013.

1 On November 6, 2013, Plaintiff filed a motion to file a late second amended complaint, which
2 was self-dated October 3, 2013. Plaintiff contends that due to his lack of knowledge of the law, he
3 was under the impression he could either file a second amended complaint or file an appeal with the
4 appellate court. After Plaintiff received the Ninth Circuit's order dismissing his appeal for lack of
5 jurisdiction, Plaintiff now seeks to submit his second amended complaint.

6 Good cause having been presented to the Court,

7 IT IS HEREBY ORDERED that:

- 8 1. The Findings and Recommendation issued November 5, 2013, is VACATED;
- 9 2. Plaintiff's motion for an extension of time to file a second amended complaint is
10 GRANTED;
- 11 3. The Clerk of Court is directed to file the second amended complaint lodged on
12 November 6, 2013; and
- 13 4. The Court will screen Plaintiff's second amended complaint in due process.

14
15 IT IS SO ORDERED.

16 Dated: November 19, 2013

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18 _____
19 UNITED STATES MAGISTRATE JUDGE