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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 GORDON BULLOCK,

12 Plaintiff,

13 vs.

14 WASCO STATE PRISON MEDICAL,

15 Defendant.  
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1:14-cv-00092-GSA-PC

ORDER GRANTING LEAVE TO  
AMEND THE COMPLAINT

ORDER DIRECTING CLERK TO FILE  
SECOND AMENDED COMPLAINT  
LODGED ON DECEMBER 19, 2014  
(Doc. 14.)

18 **I. BACKGROUND**

19 Gordon Bullock ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis  
20 in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint  
21 commencing this action on December 24, 2013, at the United States District Court for the  
22 Northern District of California. (Doc. 1.) On January 8, 2014, the case was transferred to the  
23 United States District Court for the Eastern District of California. (Doc. 5.) On March 31,  
24 2014, Plaintiff consented to Magistrate Judge jurisdiction in this action pursuant to 28 U.S.C. §  
25 636(c), and no other parties have made an appearance. (Doc. 11.) Therefore, pursuant to  
26 Appendix A(k)(4) of the Local Rules of the Eastern District of California, the undersigned shall  
27 conduct any and all proceedings in the case until such time as reassignment to a District Judge  
28 is required. Local Rule Appendix A(k)(3).

1 On November 13, 2014, the court dismissed the Complaint for failure to state a claim,  
2 with leave to amend. (Doc. 12.) On December 19, 2014, Plaintiff filed the First Amended  
3 Complaint, which awaits the court’s requisite screening. (Doc. 13.) On December 19, 2014,  
4 Plaintiff lodged a proposed Second Amended Complaint. (Doc. 14.)

5 **II. LEAVE TO AMEND – RULE 15(a)**

6 Under Rule 15(a) of the Federal Rules of Civil Procedure, a party may amend the  
7 party’s pleading once as a matter of course at any time before a responsive pleading is served.  
8 Fed. R. Civ. P. 15(a). Otherwise, a party may amend only by leave of the court or by written  
9 consent of the adverse party, and leave shall be freely given when justice so requires. *Id.* Here,  
10 because Plaintiff has already amended the complaint more than once, Plaintiff requires leave of  
11 court to file a Third Amended Complaint.

12 “Rule 15(a) is very liberal and leave to amend ‘shall be freely given when justice so  
13 requires.’” AmerisourceBergen Corp. v. Dialysis West, Inc., 445 F.3d 1132, 1136 (9th Cir.  
14 2006) (quoting Fed. R. Civ. P. 15(a)). However, courts “need not grant leave to amend where  
15 the amendment: (1) prejudices the opposing party; (2) is sought in bad faith; (3) produces an  
16 undue delay in the litigation; or (4) is futile.” *Id.* The factor of “[u]ndue delay by itself . . . is  
17 insufficient to justify denying a motion to amend.” Owens v. Kaiser Foundation Health Plan,  
18 Inc., 244 F.3d 708, 712, 713 (9th Cir. 2001) (quoting Bowles v. Reade, 198 F.3d 752, 757-58  
19 (9th Cir. 1999)).

20 **Discussion**

21 The court finds no bad faith or futility in Plaintiff’s proposed amendment. The  
22 proposed Second Amended Complaint arises from the same events at issue in the Complaint for  
23 this action. Because the First Amended Complaint awaits the court’s requisite screening and  
24 has not been served, there will be no undue delay or prejudice to Defendants in allowing  
25 Plaintiff to proceed with the Second Amended Complaint. Therefore, Plaintiff shall be granted  
26 leave to amend, and the Second Amended Complaint shall be filed.

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1 **III. CONCLUSION**

2 Based on the foregoing, IT IS HEREBY ORDERED that:

- 3 1. Plaintiff is granted leave to amend the complaint;
- 4 2. The Clerk is directed to file the proposed Second Amended Complaint which
- 5 was lodged on December 19, 2014; and
- 6 3. The Second Amended Complaint shall be screened in due course.

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8 IT IS SO ORDERED.

9 Dated: May 28, 2015

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE