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

GUSTAVO MCKENZIE,  
  
                    Plaintiff,  
  
          v.  
  
E. BANUELOS, et al.,  
  
                    Defendants.

Case No. 1:14-cv-00434 AWI DLB PC  
  
FINDINGS AND RECOMMENDATION  
DENYING PLAINTIFF’S MOTION FOR  
REMAND  
[ECF No. 14]  
  
FOURTEEN DAY DEADLINE

Plaintiff Gustavo McKenzie (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. On March 25, 2014, Defendant removed this action to federal court.

On March 11, 2015, the Court screened the complaint and dismissed it with leave to amend. On April 8, 2015, Plaintiff filed a First Amended Complaint which is currently pending screening by the Court.

Also on April 8, 2015, Plaintiff filed a motion for remand to state court pursuant to 28 U.S.C. § 1447(c). Plaintiff requests that the action be remanded to the state court in the event that this Court decides that the First Amended Complaint (“FAC”) fails to state a claim upon which relief can be granted. Plaintiff’s request is not ripe for decision. Upon screening, the Court may or may not determine that the FAC fails to state a claim. In any case, the Court must first screen the FAC. Plaintiff is advised that in the event the Court does issue Findings and Recommendations to dismiss

1 the complaint for failure to state a claim, he may submit his request for remand in his objections.

2 **RECOMMENDATION**

3 Accordingly, IT IS HEREBY RECOMMENDED that Plaintiff's motion for remand be  
4 DENIED with leave to renew at a later date.

5 These Findings and Recommendations will be submitted to the United States District Judge  
6 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen (14)  
7 days after being served with these Findings and Recommendations, the parties may file written  
8 objections with the Court. Local Rule 304(b). The document should be captioned "Objections to  
9 Magistrate Judge's Findings and Recommendations." Any response to the objections must be filed  
10 within seven (7) days from the date of service of the objections. The parties are advised that failure  
11 to file objections within the specified time may waive the right to appeal the District Court's order.  
12 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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14 IT IS SO ORDERED.

15 Dated: June 19, 2015

16 /s/ Dennis L. Beck  
17 UNITED STATES MAGISTRATE JUDGE  
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