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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 JOHNNY BRIONES,

12 Plaintiff,

13 vs.

14 PLEASANT VALLEY STATE PRISON, et
15 al.,

16 Defendants.
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1:14-cv-00750-LJO-GSA-PC

ORDER GRANTING EXTENSION OF
TIME NUNC PRO TUNC
(Doc. 28.)

ORDER GRANTING MOTION TO ACCEPT
SECOND AMENDED COMPLAINT
(Doc. 29.)

ORDER FOR CLERK TO FILE SECOND
AMENDED COMPLAINT
(Doc. 29.)

ORDER VACATING FINDINGS AND
RECOMMENDATIONS
(Doc. 23.)

24 **I. BACKGROUND**

25 Johnny Briones (“Plaintiff”) is a state prisoner proceeding pro se with this civil rights
26 action pursuant to 42 U.S.C. § 1983.) On May 19, 2014, Plaintiff filed the Complaint
27 commencing this action. (Doc. 1.) On October 10, 2014, Plaintiff filed the First Amended
28 Complaint. (Doc. 16.) On October 31, 2014, the court issued an order striking the First

1 Amended Complaint for lack of Plaintiff's signature, with leave to amend within thirty days.
2 (Doc. 19.) Plaintiff failed to file a Second Amended Complaint within the thirty-day deadline,
3 and on December 18, 2014, the court entered findings and recommendations to dismiss this
4 case based on Plaintiff's failure to comply with the court's order. (Doc. 23.) Plaintiff was
5 granted thirty days in which to file objections to the findings and recommendations. (Id.) On
6 January 29, 2015, Plaintiff filed objections. (Doc. 26.)

7 On January 30, 2015, the court issued an order requiring Plaintiff to file the Second
8 Amended Complaint within thirty days. (Doc. 27.) On February 11, 2015, Plaintiff filed a
9 motion for extension of time to file the Second Amended Complaint. (Doc. 28.) On February
10 13, 2015, Plaintiff submitted the Second Amended Complaint together with a motion for the
11 court to accept it. (Doc. 29.)

12 Now before the court are Plaintiff's motion for extension of time and motion to accept
13 the Second Amended Complaint.

14 **II. PLAINTIFF'S MOTIONS**

15 Plaintiff requests the court to grant him an extension of time to file the Second
16 Amended Complaint and to accept the Second Amended Complaint he submitted to the court
17 on February 13, 2015. Good cause appearing, Plaintiff's motions shall be granted. Based on
18 this ruling, the findings and recommendations issued on December 18, 2014 are moot and shall
19 be vacated.

20 **III. CONCLUSION**

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

- 22 1. Plaintiff's motion for extension of time to file the Second Amended Complaint
23 is GRANTED nunc pro tunc;
- 24 2. Plaintiff's motion for the court to accept his Second Amended Complaint
25 submitted on February 13, 2015 is GRANTED;
- 26 3. The Clerk of Court is DIRECTED to file the Second Amended Complaint
27 submitted on February 13, 2015;

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4. The findings and recommendations issued on December 18, 2014 are VACATED; and

5. The court shall screen the Second Amended Complaint in due time.

IT IS SO ORDERED.

Dated: February 18, 2015

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE