1		
2		
3		
4		
5		
6		
7		
8	UNITED STAT	ES DISTRICT COURT
9	EASTERN DIST	RICT OF CALIFORNIA
10		
11	CHESTER RAY WISEMAN,) Case No.: 1:14-cv-00831-LJO-SAB (PC)
12	Plaintiff,	ORDER DIRECTING CLERK OF COURT TO FILE PLAINTIFF'S FIRST AMENDED
13	v.	COMPLAINT LODGED MARCH 16, 2015, AND GRANTING DEFENDANT BITER THIRTY DAYS
14	MATTHEW CATE, et al.,) FROM THE DATE OF SERVICE OF THIS ORDER) TO FILE A RESPONSE
15	Defendants.)) [ECF No. 20]
16))
17	Plaintiff Chester Ray Wiseman is appearing pro se and in forma pauperis in this civil rights	
18	action pursuant to 42 U.S.C. § 1983.	
19	On October 3, 2014, the Court screened	Plaintiff's complaint and found that Plaintiff stated a
20	cognizable claim for deliberate indifference aga	ainst Defendant Martin D. Biter. (ECF No. 8.) The
21	Court granted Plaintiff the option of filing a first	st amended complaint or notifying the Court of his
22	intent to proceed only on his claim against Defe	endant Biter.
23	On October 20, 2014, Plaintiff notified	the Court of his intent to proceed against Defendant
24	Biter only. (ECF No. 9.) Accordingly, on Nov	vember 19, 2014, the Court dismissed all other claims
25	and defendants from the action for failure to sta	ate a cognizable claim for relief, and ordered service of
26	process be initiated as to Defendant Biter for a	claim of deliberate indifference. (ECF No. 10.)
27	On December 12, 2014, the Court direc	ted the United States Marshal to initiate service on
28	Defendant Biter. (ECF No. 13.) On February	19, 2015, Defendant Biter filed a request to extend the
		1

1	time to file a response to the complaint, which was granted. (ECF Nos. 15, 16.) Defendant Biter's
2	response is currently due on or before March 22, 2015. (ECF No. 16.)

3	On March 16, 2015, Plaintiff submitted a first amended complaint which was lodged by the	
4	Court. (ECF No. 20.) Under Rule 15(a) of the Federal Rules of Civil Procedure, a party may amend	
5	the party's pleading once as a matter of course at any time before a responsive pleading is served.	
6	Otherwise, a party may amend only by leave of the court or by written consent of the adverse party,	
7	and leave shall be freely given when justice so requires. Fed. R. Civ. P. 15(a). In this case, a	
8	responsive pleading has not been served and plaintiff has not previously amended his complaint.	
9	Therefore, Plaintiff may file an amended complaint without leave of the court, and the Court will	
10	direct the Clerk of Court to file Plaintiff's first amended complaint and grant Defendant Biter thirty	
11	days to file a response. ¹	
12	Based on the foregoing, it is HEREBY ORDERED that:	
13	1. The Clerk of Court is directed to file Plaintiff's first amended complaint, lodged March	
14	16, 2015 (ECF No. 20); and	
15	2. Within thirty (30) days from the date of service of this order, Defendant Biter shall file	
16	a response to Plaintiff's first amended complaint.	
17		
18	IT IS SO ORDERED.	
19	Dated: March 17, 2015	
20	UNITED STATES MAGISTRATE JUDGE	
21		
22		
23		
24		
25		
26		
27	¹ In an order issued concurrently herewith, the Court has found that Plaintiff states a cognizable claim of deliberate indifference in violation of the Eighth Amendment against Defendant Trimble and has ordered service by the United States	
28	marshal. 28 U.S.C. § 1915A; Fed. R. Civ. P. 4(c)(3).	