## 1 2 3 4 5 UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA 6 7 8 Case No.: 1:15-cv-00273-LJO-SAB (PC) ROBERT BISHOP, 9 Plaintiff, ORDER DENYING PLAINTIFF'S MOTION 10 TO AMEND THE COMPLAINT WITHOUT v. **PREJUDICE** 11 RAUL LOPEZ, et al., [ECF No. 58] 12 Defendants. 13 14 Plaintiff Robert Bishop is appearing pro se and in forma pauperis in this civil rights action 15 16 pursuant to 42 U.S.C. § 1983. This action is proceeding against Defendants Lopez, Germond, Rodriguez, Vogel, Jones, Cano, 17 Marshall, Cruz, Tucker, Mauldin, Maita, and Dynsinki for conditions of confinement in violation of 18 the Eighth Amendment. 19 20 Now pending before the Court is Plaintiff's motion to amend the complaint, filed July 17, 2015. (ECF No. 58.) Defendants filed an opposition on September 4, 2015. (ECF No. 65.) 21 I. 22 DISCUSSION 23 24 "Rule 15(a) is very liberal and leave to amend 'shall be freely given when justice so requires." AmerisourceBergen Corp. v. Dialysis West, Inc., 465 F.3d 946, 951 (9th Cir. 2006) (quoting Fed. R. 25 Civ. P. 15(a)). However, courts "need not grant leave to amend where the amendment: (1) prejudices 26 the opposing party; (2) is sought in bad faith; (3) produces an undue delay in the litigation; or (4) is 27 28 futile." AmerisourceBergen Corp., 465 F.3d at 951. Relevant to the futility factor, a plaintiff may not

bring unrelated claims against unrelated parties in a single action. Fed. R. Civ. P. 18(a), 20(a)(2); Owens v. Hinsley, 635 F.3d 950, 952 (7th Cir. 2011); George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007).

First, contrary to Plaintiff's contention, it is not apparent from Plaintiff's second amended complaint did not contain a distinct common law claim for negligence, but rather sought relief under the California Constitution which the Court addressed in the February 20, 2015, screening order and properly found such claim not cognizable by way of section 1983. Second, Plaintiff's present motion to amend is defective. Local Rule 137(c) requires that all motions for leave to amend be accompanied by the proposed amended complaint. Plaintiff's present motion does not include a proposed amended complaint. Accordingly, Plaintiff's motion to amend is DENIED, without prejudice, to re-filing in a timely manner if so desired.

3 | IT IS SO ORDERED.

Dated: **September 25, 2015** 

UNITED STATES MAGISTRATE JUDGE