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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 RONALD YOUNG,

12 Plaintiff,

13 v.

14 C. SISODIA, et al.,

15 Defendants.
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1:15-cv-00640-LJO-EPG (PC)

ORDER VACATING FINDINGS AND
RECOMMENDATIONS,
RECOMMENDING THAT THIS CASE BE
DISMISSED, WITH PREJUDICE, FOR
PLAINTIFF'S FAILURE TO STATE A
CLAIM UPON WHICH RELIEF MAY BE
GRANTED

(ECF NO. 15)

18 Ronald Young ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis*
19 in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint
20 commencing this action on April 27, 2015. (ECF No. 1). The Court screened Plaintiff's
21 Complaint on June 24, 2016, finding that it failed to state any claims against any of the
22 Defendants upon which relief could be granted under section 1983, and giving Plaintiff leave to
23 amend. (ECF No. 13). Plaintiff filed his First Amended Complaint on July 21, 2016. (ECF
24 No. 14). On September 15, 2016, the Court screened Plaintiff's First Amended Complaint,
25 finding that it failed to state any claims against any of the Defendants upon which relief could
26 granted, and recommended dismissal of the action, with prejudice. (ECF No. 15). On October
27 14, 2016, Plaintiff filed objections to the findings and recommendations (ECF No. 16), and
28 lodged his Second Amended Complaint (ECF No. 17).

1 Plaintiff's objection asks the Court for leave to amend so that he can file his Second
2 Amended Complaint. Under Rule 15(a)(2) of the Federal Rules of Civil Procedure, "[t]he court
3 should freely give leave [to amend] when justice so requires." "In exercising this discretion, a
4 court must be guided by the underlying purpose of Rule 15 to facilitate decision on the merits,
5 rather than on the pleadings or technicalities." United States v. Webb, 655 F.2d 977, 979 (9th
6 Cir. 1981).

7 Given the underlying purpose of Rule 15, the Court will vacate its order recommending
8 dismissal with prejudice, and grant Plaintiff leave to amend so that he can file his Second
9 Amended Complaint (which has already been lodged with the Court).

10 Accordingly, IT IS ORDERED that:

- 11 1. The Findings and Recommendations, Recommending That This Case be
12 Dismissed, With Prejudice, for Plaintiff's Failure to State a Claim Upon Which
13 Relief may be Granted (ECF No. 15) are VACATED;
- 14 2. Plaintiff is granted leave to file his Second Amended Complaint; and
- 15 3. The Clerk of Court is directed to file the lodged Second Amended Complaint
16 (ECF No. 17).

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18 IT IS SO ORDERED.

19 Dated: October 21, 2016

20 /s/ Eric P. Gray
21 UNITED STATES MAGISTRATE JUDGE
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