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7 **UNITED STATES DISTRICT COURT**
8 **EASTERN DISTRICT OF CALIFORNIA**
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10 VESTER L. PATTERSON,

11 Petitioner,

12 v.

13 JOEL MARTINEZ,

14 Respondent.

Case No. 1:16-cv-01215-SAB-HC

ORDER FOR RESPONDENT TO FILE AN
OPPOSITION OR STATEMENT OF NON-
OPPOSITION TO MOTION TO AMEND

(ECF No. 11)

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16 Petitioner is state prisoner proceeding pro se with a petition for writ of habeas corpus
17 pursuant to 28 U.S.C. § 2254. On August 30, 2016, the Court directed the Clerk of Court to serve
18 the petition on Respondent and ordered Respondent to file a response. (ECF No. 4). On
19 September 26, 2016,¹ Petitioner filed a first amended petition (ECF No. 10) and a motion for an
20 order to direct the Clerk of Court to serve the amended petition (ECF No. 11), which the Court
21 construes as a motion to amend. See Castro v. United States, 540 U.S. 375, 381–82 (2003)
22 (courts may recharacterize a pro se motion to “create a better correspondence between the
23 substance of a pro se motion’s claim and its underlying legal basis”).

24 A party may amend its pleading once as a matter of course within 21 days after serving it,
25 or “if the pleading is one to which a responsive pleading is required, 21 days after service of a

26 _____
27 ¹ Pursuant to the prison mailbox rule, a *pro se* prisoner’s legal document is filed “at the time . . . [it is] delivered . . .
28 to the prison authorities for forwarding to the court clerk.” Hernandez v. Spearman, 764 F.3d 1071, 1074 (9th Cir.
2014) (alteration in original) (internal quotation marks omitted) (quoting Houston v. Lack, 487 U.S. 266, 276
(1988)).

