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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

SANTOS VALENZUELA,)	Case No.: 1:17-cv-01440-LJO-SAB (PC)
)	
Plaintiff,)	
)	ORDER VACATING FINDINGS AND
v.)	RECOMMENDATIONS ISSUED DECEMBER 5,
)	2018
SMITH, et al.,)	
)	[ECF No. 33]
Defendants.)	
)	
)	
)	

Plaintiff Santos Valenzuela is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On December 5, 2018, the undersigned issued Findings and Recommendations recommending that the instant action be dismissed for failure to state a cognizable claim for relief. On December 28, 2018, Plaintiff filed objections to the Findings and Recommendations.

In his objections, Plaintiff contended that he filed his first amended complaint without understanding the legal process and meaning of “deliberate indifference.” (ECF No. 38 at 1.) Plaintiff further contended that he has “not been given the opportunity to study this matter in a facility law library so I can correctly file the complaint for what happened to my hand in surgery. I merely was forced to file [an] amended complaint in a mental health facility at California Health Care facility without sufficient knowledge of the law and or access to the law library.” (Id. at 2.)

1 Based on Plaintiff's allegations in his objections and in the interest of justice, the Court granted
2 Plaintiff one final opportunity to file a second amended complaint in an attempt to cure the
3 deficiencies and state a cognizable claim for relief. The Court held the pending December 5, 2018
4 Findings and Recommendations in abeyance unless and until Plaintiff filed a second amended
5 complaint and warned Plaintiff that if he failed to file a timely second amended complaint, the Court
6 would proceed with the Findings and Recommendations issued on December 5, 2018, recommending
7 the action be dismissed for failure to state a cognizable claim for relief.

8 On March 28, 2019, Plaintiff filed a second amended complaint. (ECF No. 46.) Accordingly,
9 the December 5, 2018 Findings and Recommendations are **HEREBY VACATED**, and the Court will
10 screen Plaintiff's second amended complaint in due course.

11
12 IT IS SO ORDERED.

13 Dated: March 29, 2019



UNITED STATES MAGISTRATE JUDGE