

1 Thus, on October 4, 2018, the Court issued findings and recommendations to dismiss this
2 action, with prejudice, for Plaintiff's failure to state a claim, failure to obey a court order, and
3 failure to prosecute. (ECF No. 15.) Those findings and recommendations were served on
4 Plaintiff and contained notice that any objections thereto were to be filed within fourteen (14)
5 days after service. (Id. at 11.)

6 Currently before the Court are Plaintiff's objections, filed October 18, 2018. (ECF No.
7 16.) Plaintiff states that he never received the Court's August 14, 2018 screening order granting
8 leave to amend, and requests an extension of time to file his amended complaint. (Id.)

9 As it appears that Plaintiff did not receive the Court's prior screening order, the Court
10 finds good cause to vacate the pending findings and recommendations and permit Plaintiff
11 another opportunity to file a second amended complaint. Plaintiff should not be penalized for
12 failure to obey a court order that he did not receive.

13 Accordingly, IT IS HEREBY ORDERED as follows:

- 14 1. The findings and recommendations issued on October 4, 2018, (ECF No. 15), are
15 VACATED;
- 16 2. The Clerk's Office shall re-serve the Court's August 14, 2018 screening order, (ECF
17 No. 14) on Plaintiff at his current address of record;
- 18 3. The Clerk's Office shall send Plaintiff a complaint form;
- 19 4. Within **thirty (30) days** from the date of service of this order, Plaintiff shall file a
20 second amended complaint in compliance with the Court's screening order; and
- 21 **5. If Plaintiff fails to file a second amended complaint in compliance with this order,**
22 **this action will be dismissed, with prejudice, for failure to obey a court order and**
23 **failure to state a claim.**

24
25 IT IS SO ORDERED.

26 Dated: October 24, 2018

27 /s/ Barbara A. McAuliffe
28 UNITED STATES MAGISTRATE JUDGE