UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA JOSE GOMEZ, No. 2:13-cv-0480-GEB-CMK-P Plaintiff. **ORDER** v. SANDERS, et al., Defendants. Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to Eastern District of California local rules. On March 30, 2015, the Magistrate Judge filed findings and recommendations herein which were served on the parties and which contained notice that the parties may file filed. However, apparently in lieu of objections, plaintiff filed a proposed second amended and a

On March 30, 2015, the Magistrate Judge filed findings and recommendations herein which were served on the parties and which contained notice that the parties may file objections within a specified time. No objections to the findings and recommendations have been filed. However, apparently in lieu of objections, plaintiff filed a proposed second amended and a belated opposition to the motion to dismiss. Plaintiff acknowledges the deficiencies in his complaint and indicates no opposition to the motion to dismiss, but has requested leave to file an amended complaint. While plaintiff's second amended complaint was filed prematurely, filed prior to the actual dismissal of his first amended complaint, leave to file an amended complaint was recommended and will be granted. As such, defendants will be required to respond to the

1	second amended complaint (Doc. 35) within 30 days of the date of this order.
2	The court has reviewed the file and finds the findings and recommendations to be
3	supported by the record and by the Magistrate Judge's analysis.
4	Accordingly, IT IS HEREBY ORDERED that:
5	1. The findings and recommendations filed March 30, 2014, are adopted in full;
6	2. Defendants' motion to dismiss (Doc. 16) is granted;
7	3. Plaintiff's motion to file an amended complaint (Doc. 28) is granted;
8	4. Plaintiff's second amended complaint (Doc. 35) is considered timely filed;
9	5. Plaintiff's motions for additional time to file an amended complaint (Docs. 30,
10	34) are denied as unnecessary;
11	6. Defendants shall respond to the second amended complaint within 30 days of
12	the date of this order; and
13	7. This matter is referred back to the magistrate judge for further proceedings.
14	Dated: September 23, 2015
15	
16	Sould E. Kinelly
17	GARLAND E. BURRELL, JR. Senior United States District Judge
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	