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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SAAHDI ABDUL COLEMAN, Plaintiff, v. FRED FOULK, et al., Defendants.	No. 2:13-cv-1753 KJM CKD P <u>ORDER</u>
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Plaintiff is a California prisoner proceeding pro se with an action for violation of civil rights under 42 U.S.C. §1983. On November 3, 2015, defendants filed a motion seeking dismissal of plaintiff’s remaining claims. Plaintiff responded to the motion by essentially admitting that his pleadings are defective and by seeking leave to file a second amended complaint, which plaintiff has already filed, in order to attempt to cure the deficiencies.

The court has reviewed defendants’ motion to dismiss, and it appears the parties are correct that at least some or parts of defendants’ arguments have merit. It also appears some or all of the defects identified by defendants can be cured by amended pleadings. Considering leave to amend pleadings should be given freely when justice so requires, Fed R. Civ. P. 15(a)(2), and considering the court must generally give pro se litigants an opportunity to cure the deficiencies in their pleadings, after the litigant has been informed of those deficiencies, see Ferdik v.

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1 Bonzelet, 963 F.2d 1258, 1261 (9th Cir. 1992), the court will grant plaintiff's motion for leave to
2 amend.

3 By separate order, the court will screen plaintiff's second amended complaint pursuant to
4 the court's obligation to do so under 28 U.S.C. § 1915A(a). Defendants' pending motion to
5 dismiss will be denied without prejudice and defendants need take no further action until they are
6 notified by the court that further action is required.

7 In accordance with the above, IT IS HEREBY ORDERED that:

- 8 1. Plaintiff's motion for leave to file a second amended complaint (ECF No. 41) is
9 granted;
- 10 2. Plaintiff's first amended complaint is dismissed;
- 11 3. Defendants' motion to dismiss (ECF No. 33) is denied without prejudice;
- 12 4. Defendants' motion to strike (ECF No. 45) is denied; and
- 13 5. Defendants need not take any further action with respect to this matter until notified
14 by the court that action is required.

15 Dated: June 8, 2016

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17 CAROLYN K. DELANEY
18 UNITED STATES MAGISTRATE JUDGE

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