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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

CURTIS VAUGHAN JACKSON, JR.,            No. 2:15-CV-1675-JAM-CMK-P

Plaintiff,

vs.

ORDER

CARMELINO L. GALANG, et al.,

Defendants.

\_\_\_\_\_ /

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court are: (1) plaintiff’s motion to reinstate this action (Doc. 76); and (2) plaintiff’s motions for leave to amend (Docs. 69 & 76).

On September 7, 2017, the undersigned issued findings and recommendations addressing defendants’ motion to dismiss. The court recommended that the motion be denied in part and granted in part. Specifically, the court found that defendants Galang and Wolfson should be dismissed with prejudice and that the action should proceed against defendant Dator only. Plaintiff filed objections on October 2, 2017, and defendants filed a response to plaintiff’s objections on October 13, 2017. Before the matter could be adjudicated by the District Judge, however, plaintiff filed a motion for voluntary dismissal pursuant to Federal Rule of Civil

1 Procedure 41(a)(2) and the action was closed on November 30, 2017 (see Doc. 75).

2 Plaintiff now seeks to withdraw his voluntary dismissal and reinstate this action,  
3 as well as leave to amend the complaint “to cure the deficiency” identified in the findings and  
4 recommendations. In the interest of justice, the court will reinstate this matter to allow plaintiff  
5 the opportunity to further litigate his claims. The court will not, however, grant plaintiff leave to  
6 amend at this time. In essence, plaintiff disagrees with the court’s finding that the deficiencies  
7 identified with respect to defendants Galang and Wolfson are not subject to cure by way of  
8 amendment. Whether these defendants will be dismissed with or without prejudice to  
9 amendment is a matter to be decided by the District Judge in the context of addressing the  
10 September 7, 2017, findings and recommendations. The undersigned declines to circumvent the  
11 District Judge’s authority in this regard.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. Plaintiff’s motion to reinstate this action (Doc. 76) is granted;
- 14 2. The order issued on November 30, 2017 (Doc. 75) is vacated and the  
15 Clerk of the Court is directed to reinstate this case; and
- 16 3. Plaintiff’s motions for leave to amend (Docs. 69 & 76) are denied.

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18 DATED: March 1, 2018

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20 **CRAIG M. KELLISON**  
21 UNITED STATES MAGISTRATE JUDGE  
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