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

TRI NGUYEN,

Plaintiff,

No. CIV S-09-3465 FCD GGH P

vs.

J. PAULSEN, et al.,

Defendants.

ORDER &
FINDINGS AND RECOMMENDATIONS

_____/

Plaintiff is a state prisoner proceeding pro se and in forma pauperis. On March 18, 2010, the court found plaintiff's complaint stated a colorable claim for money damages against defendants Paulsen, Nokrashy and Jone, but dismissed claims against Post with leave to amend. Plaintiff has not filed an amended complaint, therefore Post should be dismissed.

If the allegations of the complaint are proven, plaintiff has a reasonable opportunity to prevail on the merits of this action against Paulsen, Nokrashy and Jone.

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

1. Service is appropriate for the following defendants: Paulsen, Nokrashy & Jone;
2. The Clerk of the Court shall send plaintiff three USM-285 forms, one summons, an instruction sheet and a copy of the complaint filed December 15, 2009.

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1 3. Within twenty-eight days from the date of this order, plaintiff shall complete
2 the attached Notice of Submission of Documents and submit the following documents to the
3 court:

- 4 a. The completed Notice of Submission of Documents;
- 5 b. One completed summons;
- 6 c. Three completed USM-285 form for each defendant listed in number 1
7 above; and
- 8 d. Four copies of the endorsed complaint filed December 15, 2009.

9 4. Plaintiff need not attempt service on defendants and need not request waiver of
10 service. Upon receipt of the above-described documents, the court will direct the United States
11 Marshal to serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4
12 without payment of costs.

13 IT IS HEREBY RECOMMENDED that the defendant Post be dismissed from
14 this action.

15 These findings and recommendations are submitted to the United States District
16 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen
17 days after being served with these findings and recommendations, any party may file written
18 objections with the court and serve a copy on all parties. Such a document should be captioned
19 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections
20 shall be served and filed within seven days after service of the objections. The parties are
21 advised that failure to file objections within the specified time may waive the right to appeal the
22 District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

23 DATED: June 4, 2010

/s/ Gregory G. Hollows

UNITED STATES MAGISTRATE JUDGE

25 ggh: ab
26 ngu3465.srv

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

TRI NGUYEN,

Plaintiff,
vs.

No. CIV S-09-3465 FCD GGH P

J. PAULSEN, et al.,

Defendants.

NOTICE OF SUBMISSION
OF DOCUMENTS

_____ /

Plaintiff hereby submits the following documents in compliance with the court's
order filed _____:

1 completed summons form

3 completed USM-285 forms

4 copies of the December 15, 2009
Complaint

DATED:

Plaintiff