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

MIKA ALFARO,

Plaintiff,

No. CIV S-10-0892 JAM EFB PS

vs.

MARK SCOTT,

Defendant.

FINDINGS & RECOMMENDATIONS

_____ /

Plaintiff, proceeding in pro se, has requested leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. This matter was referred to this court by Local Rule 302(c)(21), pursuant to 28 U.S.C. § 636(b)(1). Plaintiff has submitted an affidavit in support of her application to proceed *in forma pauperis*, as required by 28 U.S.C. § 1915(a)(1). Dckt. No. 2.

Pursuant to federal statute, a filing fee of \$350.00 is required to commence a civil action in federal district court. 28 U.S.C. § 1914(a). The court may authorize the commencement of an action without prepayment of fees and costs or security therefor, by a person who submits an affidavit showing that he is unable to pay such costs or give security therefor. 28 U.S.C. § 1915(a)(1). An *in forma pauperis* applicant must demonstrate that because of her poverty, she cannot meet court costs and still provide himself and his dependents with the necessities of life. *Martinez v. Kristi Kleaners, Inc.*, 364 F.3d 1305, 1307 (11th Cir. 2004) (affidavit is sufficient if

1 it represents that the litigant is “unable to pay for the court fees and costs, and to provide
2 necessities for himself and his dependents”) (citing *Adkins v. E.I. Du Pont de Nemours & Co.*,
3 335 U.S. 331, 339-40 (1948)); *see also* *Sears, Roebuck & Co. v. Charles W. Sears Real Estate,*
4 *Inc.*, 865 F.2d 22, 23 (2d Cir. 1988) (denying *in forma pauperis* status where applicant had a net
5 income of approximately \$20,000).

6 Plaintiff’s affidavit indicates that she has a gross income of \$54,588 per year and that she
7 has \$624,533.00 in cash or in a checking or savings account. Plaintiff further indicates in the
8 affidavit that she has received in the past 12 months income from her business, profession, or
9 other self-employment; income from a pension, annuity, or life insurance payments; income
10 from disability or worker’s compensation payments; and income from gifts or inheritances.
11 Based on these averments, the court finds that plaintiff has failed to demonstrate that she has
12 insufficient assets to pay the filing fee and costs and provide the necessities of life for herself and
13 her two dependents.

14 Accordingly, IT IS HEREBY RECOMMENDED that plaintiff’s application to proceed
15 *in forma pauperis* be DENIED, and that plaintiff be given thirty days in which to pay the filing
16 fee of \$350.00.

17 These findings and recommendations are submitted to the United States District Judge
18 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
19 after being served with these findings and recommendations, any party may file written
20 objections with the court and serve a copy on all parties. Such a document should be captioned
21 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections
22 shall be served and filed within fourteen days after service of the objections. The parties are

23 ///

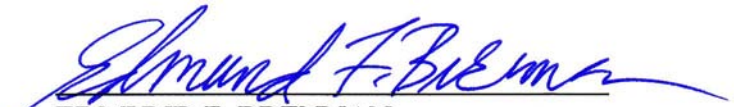
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1 advised that failure to file objections within the specified time may waive the right to appeal the
2 District Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*,
3 951 F.2d 1153, 1157 (9th Cir. 1991).

4 DATED: May 17, 2010.

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6 EDMUND F. BRENNAN
7 UNITED STATES MAGISTRATE JUDGE
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