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

JAVIER PEREZ-LOPEZ,

Plaintiff,

No. 2:10-cv-1291 KJN P

vs.

S. BARTELS,

Defendant.

ORDER and

FINDINGS AND RECOMMENDATION

_____ /

By order filed December 6, 2010 (Dkt. No. 4), this court directed plaintiff to complete his application to proceed in forma pauperis or to pay the filing fee; plaintiff was also informed that his original complaint failed to state a potentially cognizable claim, and plaintiff was granted leave to file an amended complaint. Plaintiff was accorded thirty days within which to satisfy these requirements, and was informed that failure to timely comply with the court's order would result in a recommendation that this action be dismissed.

More than thirty days have passed, and plaintiff has not communicated with the court by any means. The court construes plaintiff's inaction as abandonment of this case.

Accordingly, the Clerk of Court is ORDERED to randomly assign a district judge

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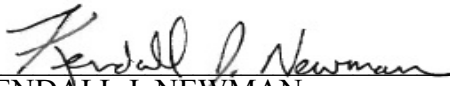
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1 to this action,¹ and

2 IT IS HEREBY RECOMMENDED that this action be dismissed without
3 prejudice. Fed. R. Civ. P. 41(b).

4 These findings and recommendations are submitted to the United States District
5 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 21 days
6 after being served with these findings and recommendations, plaintiff may file written objections
7 with the court. The document should be captioned "Objections to Magistrate Judge's Findings
8 and Recommendations." Plaintiff is advised that failure to file objections within the specified
9 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153
10 (9th Cir. 1991).

11 DATED: March 8, 2011

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14 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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26 ¹ This case is referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B), Local General Order No. 262, and Local Rule 302(c).