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

CEDRIC GREENE,

Plaintiff,

No. CIV.S. 11-0584 KJM GGH PS

vs.

NEW CARVER APARTMENTS,

Defendant.

ORDER AND FINDINGS AND
RECOMMENDATIONS

_____ /

On March 9, 2011, this court issued an order which should have been issued as findings and recommendations. Therefore, the order filed March 9, 2011 is vacated, and the following findings and recommendations are issued instead.

Plaintiff is proceeding in this action pro se and has filed a request to proceed in forma pauperis. A review of the court docket for the Central District of California reveals that plaintiff has filed over seventy actions in that district and that he has been ordered to show cause why he should not be declared a vexatious litigant. See Greene v. Mens Central Jail, case no. 2:11-cv-00997-UA-SS, docket no. 2 (February 18, 2011).

The federal venue statute requires that a civil action based on diversity jurisdiction be brought only in "(1) a judicial district where any defendant resides, if all defendants reside in

1 the same State, (2) a judicial district in which a substantial part of the events or omissions giving
2 rise to the claim occurred, or a substantial part of property that is the subject of the action is
3 situated, or (3) a judicial district in which any defendant is subject to personal jurisdiction at the
4 time the action is commenced, if there is no district in which the action may otherwise be
5 brought." 28 U.S.C. § 1391(a).

6 In this case, plaintiff's pleading concedes that the proper venue is Los Angeles,
7 which is in the Central District of California. Under 28 U.S.C. § 1406(a), the court may dismiss
8 an action laying venue in the wrong district.

9 Accordingly, IT IS HEREBY ORDERED that:

10 1. Judgment entered on March 9, 2011 is vacated.

11 2. The order filed in this case on March 9, 2011, (dkt. # 3), is vacated.

12 IT IS HEREBY RECOMMENDED that this action be dismissed without
13 prejudice.

14 These findings and recommendations are submitted to the United States District
15 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within
16 fourteen (14) days after being served with these findings and recommendations, plaintiff may file
17 written objections with the court and serve a copy on all parties. Such a document should be
18 captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is
19 advised that failure to file objections within the specified time may waive the right to appeal the
20 District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

21 DATED: March 9, 2011

22
23 /s/ Gregory G. Hollows

24 UNITED STATES MAGISTRATE JUDGE

25 GGH:076/greene0584.ifp2.wpd