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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DE ION RICHARDS-DAIKAI,  
  
Plaintiff,  
  
v.  
  
DEPARTMENT OF MOTOR VEHICLES  
OF THE STATE OF CALIFORNIA,  
  
Defendant.

No. 2:15-cv-1720 MCE GGH PS

FINDINGS AND RECOMMENDATIONS

This action was referred to the undersigned pursuant to Local Rule 302(c)(21). Pursuant to Federal Rule of Civil Procedure 4(m) in effect when this action was filed, the court may dismiss an action where service of summons is not made within 120 days after the filing of the complaint.<sup>1</sup> In the order requiring timely service filed December 2, 2015, plaintiff was cautioned that this action may be dismissed if service was not timely completed. This action was filed August 12, 2015 and plaintiff has not yet served defendant with summons. On March 17, 2016, plaintiff was ordered to show cause, within fourteen days, why his action should not be dismissed for failure to comply with Federal Rule of Civil Procedure 4(m). Plaintiff was warned that failure to timely file the required writing would result in a recommendation that the case be dismissed.

<sup>1</sup> The Federal Rules of Civil Procedure were recently amended to require service within ninety days. Fed. R. Civ. P. 4(m) (December 1, 2015 amendments). Although it is generally the case that the current rules are to be applied, the undersigned exercises his discretion to use the rule in effect at time of filing.

1 The fourteen day period has now expired, and plaintiff has not shown cause or otherwise  
2 responded to the court's order.

3 Accordingly, IT IS HEREBY RECOMMENDED that: this action be dismissed without  
4 prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

5 These findings and recommendations are submitted to the United States District Judge  
6 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
7 after being served with these findings and recommendations, plaintiff may file written objections  
8 with the court. The document should be captioned "Objections to Magistrate Judge's Findings  
9 and Recommendations." Plaintiff is advised that failure to file objections within the specified  
10 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153  
11 (9th Cir. 1991).

12 Dated: April 14, 2016

13 /s/ Gregory G. Hollows

14 UNITED STATES MAGISTRATE JUDGE

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