

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

LUCRETIA GALLOW,

Plaintiff, 1:07 CV 0173 LJO WMW PC

vs. FINDINGS AND RECOMMENDATION

SGT.SMITH, et al.,

Defendants.

On July 15, 2008, the operative complaint was dismissed, granting Plaintiff leave to file an amended complaint. Plaintiff failed to file an amended complaint, and on October 8, 2008, a recommendation of dismissal was entered. On October 17, 2008, Plaintiff filed objections to the findings and recommendations. On November 18, 2008, an order was entered, vacating the findings and recommendations and granting Plaintiff a thirty day extension of time in which to file an amended complaint. To date, Plaintiff has not filed an amended complaint.

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice for Plaintiff's failure to prosecute.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty days after being served with these findings and recommendations, any party may file written

1 objections with the court and serve a copy on all parties. Such a document should be captioned
2 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections
3 shall be served and filed within ten days after service of the objections. The parties are advised
4 that failure to file objections within the specified time waives all objections to the judge's
5 findings of fact. See Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998). Failure to file
6 objections within the specified time may waive the right to appeal the District Court's order.
7 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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9 IT IS SO ORDERED.

10 Dated: January 13, 2009

11 /s/ **William M. Wunderlich**
12 UNITED STATES MAGISTRATE JUDGE
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