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

ALVIN J. SCHROEDER,

Plaintiff,

v.

JAMES A. YATES, et al.,

Defendants.

NO. 1:09-cv-02236-AWI-GBC (PC)

FINDINGS AND  
RECOMMENDATION  
RECOMMENDING DISMISSING  
ACTION WITH PREJUDICE FOR  
FAILURE TO STATE A CLAIM

OBJECTIONS DUE WITHIN THIRTY  
DAYS

**I. Procedural History**

On December 28, 2009, Plaintiff Alvin J. Schroeder, a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983. Doc. 1. On November 1, 2010, Plaintiff's first and second amended complaints were stricken as incomplete. Doc. 15. On November 22, 2010, Plaintiff filed the corrected first amended complaint. Doc. 18. On December 9, 2011, the Court dismissed the action and required Plaintiff to file an amended complaint within thirty days. Doc. 21. Plaintiff was warned that if he failed to file an amended complaint in compliance with the order, this action would be dismissed, with prejudice, for failure to state any claims.

More than thirty days have passed and Plaintiff has not complied with or otherwise responded to the Court's order. As a result, there is no pleading on file which sets forth any claims upon which relief may be granted.

1 **II. Recommendation**

2 Accordingly, pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e), the Court HEREBY  
3 RECOMMENDS that:

- 4 1. this action be DISMISSED, with prejudice, based on Plaintiff’s failure to state any  
5 claims upon which relief may be granted (Doc. 18; Doc. 21); and  
6 2. The Clerk’s Office be directed to enter judgment against Plaintiff.

7  
8 These Findings and Recommendations will be submitted to the United States District Judge  
9 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **thirty (30)**  
10 **days** after being served with these Findings and Recommendations, Plaintiff may file written  
11 objections with the court. The document should be captioned “Objections to Magistrate Judge’s  
12 Findings and Recommendations.” Plaintiff is advised that failure to file objections within the  
13 specified time may waive the right to appeal the District Court’s order. *Martinez v. Ylst*, 951 F.2d  
14 1153 (9th Cir.1991).

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17 IT IS SO ORDERED.

18 Dated: January 13, 2012

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20 UNITED STATES MAGISTRATE JUDGE