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

MIKHIEL J. LEINWEBER,

Plaintiff,

No. CIV S-07-1137 FCD EFB P

vs.

CAPTAIN COCHRANE, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

_____/

On November 4, 2008, the court found that plaintiff's application to proceed *in forma pauperis* failed to contained the required certified trust account statement. Accordingly, the court ordered plaintiff to file a completed in forma pauperis application together with the required certified copy of his prison trust account statement. The order gave plaintiff 30 days to file the required application and warned him that failure to do so would result in a recommendation that this action be dismissed.

The 30-day period has expired and plaintiff has not filed a completed *in forma pauperis* affidavit or otherwise responded to the court's order.

It therefore is RECOMMENDED that this action be dismissed without prejudice.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty days

1 after being served with these findings and recommendations, any party may file written
2 objections with the court and serve a copy on all parties. Such a document should be captioned
3 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections
4 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*
5 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

6 Dated: January 22, 2009.

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8 EDMUND F. BRENNAN
9 UNITED STATES MAGISTRATE JUDGE
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