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

KEVIN RODGERS,

Plaintiff,

No. 2:07-cv-2269 WBS DAD

vs.

JAMES E. TILTON, et al.,

Defendant.

FINDINGS & RECOMMENDATIONS

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On April 2, 2012, plaintiff filed a motion to withdraw the settlement agreement in this action and re-open the proceedings. (Doc. No. 74.) Therein, plaintiff contended that defendants had not timely paid the settlement amount agreed to at the settlement conference. On August 21, 2012, defendants filed a response to plaintiff’s motion with evidence that the balance of the settlement had been paid to plaintiff after deduction of the balance plaintiff owed in restitution plus a statutorily required administrative fee on said restitution. (Doc. No. 76.) By court order filed October 12, 2012, plaintiff was directed to file within twenty-one days a reply to defendants’ response to his motion to withdraw the settlement agreement and re-open the proceedings. (Doc. No. 77.) That order was served on plaintiff’s address of record and returned by the postal service as undeliverable. It appears that plaintiff has failed to comply with Local Rule 183(b), which requires that a party appearing in propria persona inform the court of any

1 address change. More than sixty-three days have passed since the court order was returned by the
2 postal service and plaintiff has neither notified the Court of a current address nor responded with
3 any evidence contesting defendants' representation that the terms of the settlement reached in
4 this action have now been satisfied.

5 Accordingly, IT IS HEREBY RECOMMENDED that plaintiff's April 5, 2012
6 motion to withdraw settlement agreement and re-open proceedings (Doc. No. 74) be denied.

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

15 DATED: February 6, 2013.

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19 DALE A. DROZD
20 UNITED STATES MAGISTRATE JUDGE

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