

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

GEORGE T. MCLAUGHLIN,
Plaintiff,

vs.

M. COVA,
Defendant.

Case No. 2:08-cv-01342-PMP-GWF

**FINDINGS AND
RECOMMENDATIONS**

On October 27, 2009, the Court screened Plaintiff’s Amended Complaint pursuant to 28 U.S.C. § 1915A(b)(1)-(2) to identify any cognizable claims and dismiss any claims that were frivolous, malicious, failed to state a claim upon which relief may be granted or sought monetary relief from a defendant who is immune from such relief. (Dkt. #12). The Court found that Plaintiff had failed to state a claim upon which relief may be granted and dismissed the complaint with leave for Plaintiff to amend his complaint. (*Id.*) The Court granted Plaintiff until November 26, 2009 to submit a second amended complaint if he believed he could correct the noted deficiencies. (*Id.*)

It is now one hundred and one (101) days since the Court granted Plaintiff leave to amend and Plaintiff has neither filed a second amended complaint nor responded to the Court’s Order. Accordingly,

IT IS HEREBY RECOMMENDED that Plaintiff’s Amended Complaint (Dkt. #5) should be **dismissed with prejudice** based on Plaintiff’s failure to file a second amended complaint and failure to respond to the Court’s Order.

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1 NOTICE

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

9 DATED this 8th day of February, 2010.

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12 **GEORGE FOLEY, JR.**
13 **United States Magistrate Judge**