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

TIMOTHY O’KEEFE,)
)
 Plaintiff,)
)
 vs.)
)
 ARNOLD SCHWARZENEGGER, *et al.*,)
)
 Defendants.)

Case No. 2:08-cv-01421-PMP-GWF

**FINDINGS AND
RECOMMENDATION**

On May 1, 2009, the Court issued an Order that granted Plaintiff’s application to proceed *in forma pauperis*. (Dkt. #24). However, the Court dismissed Plaintiff’s Complaint for failure to state a claim upon which relief can be granted, with leave to amend the complaint. (*Id.*) Furthermore, the Court directed Plaintiff to file his amended complaint by June 1, 2009 and notified Plaintiff that failure to amend his complaint within the established time would result in a recommendation that this action be dismissed with prejudice. (*Id.*) To date, Plaintiff has failed to file his amended complaint within the allotted time period, and the time allowed has expired. Accordingly,


IT IS HEREBY RECOMMENDED that Plaintiff’s Civil Rights Complaint Pursuant to 42 U.S.C. § 1983 (Dkt. #1) should be **DISMISSED with prejudice** based on Plaintiff’s failure to state a claim upon which relief may be granted.

NOTICE

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 twenty (20) days after being served with these Findings and Recommendations, plaintiff may file written objections with the court. Such a document should be captioned “Objections to Magistrate Judge’s Findings and
...

1 Recommendations.” Plaintiff is advised that failure to file objections within the specified time may
2 waive the right to appeal the District Court’s order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

3 DATED this 14th day of July, 2008.

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6 _____
7 **GEORGE FOLEY, JR.**
8 **UNITED STATES MAGISTRATE JUDGE**