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

S. M. VOGELSANG,

Plaintiff,

No. CIV 08-1449 GEB KJM PS

vs.

PLANTATION HERBALS/THE UNDRUG, et al.,

Defendants.

FINDINGS & RECOMMENDATIONS

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This action was referred to the undersigned under Local Rule 72-302(c)(21). The defendants who have been served in this action have been dismissed by stipulation of the parties. As provided by Federal Rule of Civil Procedure 4(m), the court may dismiss an action where service of summons is not made within 120 days after the filing of the complaint. In the order setting status conference, filed June 24, 2008, plaintiff was cautioned that this action may be dismissed if service was not timely completed on the other defendants. At the status conference held on January 21, 2009, plaintiff was advised that service of summons on the other defendants had not been properly completed and in the order filed January 23, 2009, plaintiff was ordered to complete service of summons within 120 days. This action was filed June 24, 2008, and plaintiff has not yet served the other defendants with summons, even after a generous extension of time granted in January 2009.

1 Accordingly, IT IS HEREBY RECOMMENDED that the action as to the non-
2 served defendants now be dismissed.

3 These findings and recommendations are submitted to the United States District
4 Judge assigned to the case pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within ten days
5 after being served with these findings and recommendations, any party may file written
6 objections with the court and serve a copy on all parties. Such a document should be captioned
7 “Objections to Findings and Recommendations.” Any reply to the objections shall be served and
8 filed within ten days after service of the objections. The parties are advised that failure to file
9 objections within the specified time may waive the right to appeal the District Court's order.
10 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

11 DATED: September 8, 2009.

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15 U.S. MAGISTRATE JUDGE
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