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

EZEKIEL M. MOTEN,

Petitioner,

No. CIV S-08-1613 GGH P

vs.

T. FELKER,

Respondent.

ORDER

_____ /

By order filed December 1, 2008, petitioner was ordered to show cause, within thirty days, why respondent's August 28, 2008, motion to dismiss on the basis that the statute of limitations barred the action should not be granted.¹ The thirty day period has now expired, and petitioner has not shown cause or otherwise responded to the court's order.

IT IS HEREBY ORDERED this action be dismissed without prejudice. See Local Rule 11-110; Fed. R. Civ. P. 41(b).

DATED: January 20, 2009

/s/ Gregory G. Hollows

UNITED STATES MAGISTRATE JUDGE

GGH:009/035
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¹ Both parties have consented to the jurisdiction of the undersigned. See Docket Entries # 3 and #9.