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

MELVYN HATCH,

Plaintiff,

No. CIV S-09-1861 KJM P

vs.

LAURIE BERLINER,

Defendants.

ORDER AND

FINDINGS AND RECOMMENDATIONS

_____ /

By an order filed July 14, 2009, plaintiff was ordered to file an in forma pauperis affidavit or pay the appropriate filing fees within thirty days and was cautioned that failure to do so would result in a recommendation that this action be dismissed. The thirty day period has now expired, and plaintiff has not filed an in forma pauperis affidavit or paid the appropriate filing fee.

Accordingly, IT IS HEREBY ORDERED that the motion to proceed in forma pauperis (docket no. 2) is denied. The Clerk of Court is directed to assign this case to a district judge.

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1 IT IS HEREBY RECOMMENDED that this action be dismissed without
2 prejudice.

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 twenty
5 days 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 Magistrate Judge's Findings and Recommendations." Any reply to the objections
8 shall be served and filed within ten days after service of the objections. The parties are advised
9 that failure to file objections within the specified time may waive the right to appeal the District
10 Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

11 DATED: October 1, 2009.

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14 U.S. MAGISTRATE JUDGE
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