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

JAMES MCNEIL,

Plaintiff,

No. CIV S-09-1961 KJM P

vs.

UNKNOWN,

Defendant.

ORDER AND

FINDINGS AND RECOMMENDATIONS

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Plaintiff, a prisoner at California State Prison-Sacramento, previously filed a pleading styled “grand jury complaint form.” By order of July 31, 2009, the court denied that pleading without prejudice and provided plaintiff the opportunity to file a complaint in compliance with the requirements of the Civil Rights Act, the Federal Rules of Civil Procedure (specifically Rule 3), and the Local Rules of Practice, and to submit an application requesting leave to proceed in forma pauperis or the appropriate filing fee. Order, Docket no. 3. The court apprised plaintiff that failure to comply with the order would result in a recommendation that the matter be dismissed. Id.

Plaintiff subsequently filed a document styled “Motion to Dismiss for Failure to Comply with Demand for Trial” and addressed that document to the Municipal Court for the County of San Francisco. Docket no. 4. Other documents attached to that filing address the

1 Superior Court for the County of San Diego and the U.S. District Court for the Southern District  
2 of California. Id. None of plaintiff's submissions complies with the filing requirements of the  
3 Federal Rules of Civil Procedure or the Local Rules of Practice.

4 Because plaintiff has not submitted a complaint that meets the requirements of  
5 Federal Rule of Civil Procedure 3, he has failed to comply with the court's order of July 31,  
6 2009. Therefore the court will recommend that this matter be dismissed without prejudice.<sup>1</sup>

7 Accordingly, IT IS HEREBY ORDERED that the clerk of court randomly assign  
8 this case to a district judge.

9 IT IS HEREBY RECOMMENDED that this matter be dismissed without  
10 prejudice, for plaintiff's failure to comply with the court's order of July 31, 2009.

11 These findings and recommendations are submitted to the United States District  
12 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty  
13 days after being served with these findings and recommendations, plaintiff may file written  
14 objections with the court. The document should be captioned "Objections to Magistrate Judge's  
15 Findings and Recommendations." Plaintiff is advised that failure to file objections within the  
16 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951  
17 F.2d 1153 (9th Cir. 1991).

18 DATED: October 1, 2009.

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21 U.S. MAGISTRATE JUDGE

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<sup>1</sup> The court's recommendation of dismissal is sua sponte and does not constitute a grant of the filing that has been docketed as plaintiff's motion to dismiss (docket no. 4).