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

MARGARET FULLERTON ROMANOV
SPENCER STUART HESS-HENDERSON,

Plaintiff,

No. CIV S-09-2400 FCD GGH PS

vs.

SPENCER-STUART MINING,

Defendant.

FINDINGS AND RECOMMENDATIONS

_____ /

The above-captioned case, in which plaintiff is proceeding in pro se, was referred to the undersigned under Local Rule 72-302(c)(21), pursuant to 28 U.S.C. § 636(b)(1). On August 26, 2009, plaintiff filed a document in this case styled “Notice to Adverse Parties of Filing of Notice of Removal.” Jurisdiction, plaintiff asserts, is premised on 28 U.S.C. §§ 1441 and 1446.

Section 1441(a) of Title 28 provides that “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed *by the defendant or defendants*, to the district court of the United States for the district and division embracing the place where such action is pending” (emphasis added). Additionally, Section 1446 of Title 28 provides that “[a] *defendant or defendants* desiring to remove any civil action or criminal prosecution from a State court shall file in the district court of the United States for the

1 district and division within which such action is pending a notice of removal” (emphasis added).
2 This matter was improvidently removed by plaintiff, and as such, the court recommends that it be
3 remanded to the state court in which it was initiated.¹

4 Accordingly, IT IS HEREBY RECOMMENDED that:

- 5 1. The above-captioned case be remanded to the Superior Court of the State of
6 California in and for the County of Sacramento; and,
7 2. The Clerk be directed to close this case.

8 These findings and recommendations are submitted to the United States District
9 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen
10 (14) days after being served with these findings and recommendations, plaintiff may file written
11 objections with the court. Such a document should be captioned “Objections to Magistrate
12 Judge’s Findings and Recommendations.” Failure to file objections within the specified time
13 may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th
14 Cir. 1991).

15 DATED: January 19, 2010

/s/ Gregory G. Hollows

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GREGORY G. HOLLOWS
UNITED STATES MAGISTRATE JUDGE

GGH:076/Henderson2400.rem.wpd

¹ For this reason, plaintiff’s motion to proceed in forma pauperis and her motion for reconsideration will not be considered.