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

MARGARET FULLERTON
ROMANOV HENDERSON,

Plaintiff,

No. CIV S-09-2401 FCD EFB PS

vs.

THE GETTY AND LUK
OIL AMERIKA, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

_____ /
This case, in which plaintiff is proceeding *in propria persona*, 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 “Notice to Adverse Parties of Filing of Notice of Removal” and a motion to proceed *in forma pauperis*. Dckt. Nos. 1, 2. 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

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

5 Accordingly, IT IS HEREBY RECOMMENDED that:

6 1. This case be remanded to the Superior Court of the State of California in and for the
7 County of Sacramento; and,

8 2. The Clerk be directed to close this case.

9 These findings and recommendations are submitted to the United States District Judge
10 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within ten (10) days
11 after being served with these findings and recommendations, plaintiff may file written objections
12 with the court. Such a document should be captioned “Objections to Magistrate Judge’s
13 Findings and Recommendations.” Failure to file objections within the specified time may waive
14 the right to appeal the District Court’s order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir.
15 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

16 DATED: September 10, 2009.

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18 EDMUND F. BRENNAN
19 UNITED STATES MAGISTRATE JUDGE
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25 ¹ Plaintiff also improvidently removed several other actions to this court. *See* Civ. S-09-
26 2193 FCD EFB, Civ. S-09-2194 JAM GGH, Civ. S-09-2196 GEB EFB, Civ. S-09-2230 JAM
GGH, and Civ. S-09-2231 GEB DAD. One of the actions has already been remanded, *see* Civ.
S-09-2231 GEB DAD, and remand has been recommended in the remainder.