

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

ROBERT LOUIS WATKINS,

Plaintiff,

No. CIV S-10-0620 LKK DAD PS

v.

JAMIE POPE, et al.,

ORDER

Defendants.

_____ /

Plaintiff is proceeding pro se with a civil rights complaint against the California Public Employees Retirement System and an individual named Jamie Pope. On August 8, 2011, the court served upon plaintiff an order dismissing his amended complaint and granting plaintiff thirty days to file a further amended complaint. (Doc. No. 13.) On September 19, 2011, the undersigned issued findings and recommendations recommending that this action be dismissed without prejudice due to plaintiff’s failure to respond to the court’s August 8, 2011 order. (Doc. No. 14.)

On September 26, 2011, plaintiff filed with the court a document styled “MOTION FOR RELIEF FROM DEFAULT; and OBJECTIONS TO PROPOSED FINDINGS AND RECOMMENDATIONS; MOTION FOR RECONSIDERATION; DECLARATION OF PLAINTIFF; EXHIBITS.” (Doc. No. 15.) Therein, plaintiff declares under penalty of perjury

1 that he departed for a religious seminar and retreat on August 19, 2011, and that his father passed
2 away on September 19, 2011.¹ (Doc. No. 15 at 6.) Plaintiff states that as a result of these events
3 he “did not receive actual notice of the judgment, and therefore [was] unable to comply in a
4 timely fashion.”² (Doc. No. 15 at 6.)

5 Good cause appearing, the undersigned will vacate the September 19, 2011
6 findings and recommendations and will grant plaintiff twenty-one days to file a second amended
7 complaint. Plaintiff is cautioned however that this is the second time that the court has had to
8 vacate findings and recommendations to specially accommodate plaintiff.³ Plaintiff cannot
9 continue to rely on such accommodations in pursuing this action. In this regard, plaintiff is again
10 advised that his failure to comply with the court’s rules or with any order of the court may be
11 grounds for imposition by the court of any and all sanctions authorized by statute or rule or
12 within the inherent power of the court. See Local Rule 110.

13 Accordingly, IT IS HEREBY ORDERED that:

14 1. The findings and recommendations filed September 19, 2011 (Doc. No. 14) are
15 vacated;

16 2. Within twenty-one (21) days from the date of this order, an amended complaint
17 shall be filed that cures the defects noted in the court’s August 8, 2011 order and complies with
18 the Federal Rules of Civil Procedure and the Local Rules of Practice. The amended complaint
19 must bear the case number assigned to this action and must be titled “Second Amended
20 Complaint”; and

21 _____
22 ¹ Plaintiff’s declaration is unsigned. In place of a signature plaintiff has typed his name.
23 Plaintiff is advised that all pleadings and non-evidentiary documents must be signed. See Local
24 Rule 131(b).

25 ² Plaintiff offers no explanation as to why he did not receive the court’s August 8, 2011
26 order before he departed for his religious seminar and retreat on August 19, 2011.

³ On June 20, 2011 the court vacated findings and recommendations stemming from
plaintiff’s failure to keep the court apprised of his current address as required. (Doc. No. 11.)

1 3. Failure to respond to this order in a timely manner may result in a
2 recommendation that this action be dismissed.

3 DATED: October 7, 2011.

4
5 
6 _____
7 DALE A. DROZD
8 UNITED STATES MAGISTRATE JUDGE

6 DAD:6
7 ddad1\orders.prose\watkins0620.vac2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26