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

PHILLIP CARY PAPPAS,

Plaintiff,

No. CIV S-10-1211 LKK EFB (TEMP) P

vs.

BLACKWELL, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

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Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On July 30, 2010, defendants Blackwell, Soria, Torres and Zuniga moved to dismiss and/or for more definite statement. Dckt. No. 15. On October 8, 2010 and November 12, 2010, the remaining defendants joined in the motion to dismiss. Dckt. Nos. 24, 28. On September 8, 2010, the court advised plaintiff of the requirements for filing an opposition to the motion, that failure to oppose such a motion may be deemed a waiver of opposition to the motion, and that failure to comply with the Local Rules may result in a recommendation of dismissal.

Despite three extensions of time plaintiff failed to file an opposition to the motions. Accordingly, on January 31, 2011, the court once again informed plaintiff that failure to file a written opposition or a statement of no opposition may be deemed a waiver of any opposition to

1 the motion, gave plaintiff 30 days to file an opposition or statement of non-opposition and  
2 warned him that failure to do so could result in dismissal. *See* Fed. R. Civ. P. 41(b). The time  
3 for acting has passed and plaintiff has not filed an opposition or a statement of no opposition.

4 The court finds that plaintiff twice has been warned with specificity that he must file a  
5 response to defendants' motion and has been given multiple extensions of time. Plaintiff has  
6 disobeyed this court's orders. The appropriate sanction is dismissal without prejudice.

7 Accordingly, it is RECOMMENDED that this action be dismissed without prejudice.  
8 *See* Fed. R. Civ. P. 41(b).

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 fourteen days  
11 after being served with these findings and recommendations, any party may file written  
12 objections with the court and serve a copy on all parties. Such a document should be captioned  
13 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections  
14 within the specified time may waive the right to appeal the District Court's order. *Turner v.*  
15 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

16 Dated: March 23, 2011.

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18 EDMUND F. BRENNAN  
19 UNITED STATES MAGISTRATE JUDGE  
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