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7
8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA – SACRAMENTO DIVISION**

10
11 GLENN PICO,) **CASE NO. 2:10-CV-01406-JAM-GGH**
12) **ORDER GRANTING DEFENDANTS’**
Plaintiff,) **MOTION TO DISMISS**
13)
14 v.)
15 CONSUMNES RIVER COLLEGE and)
ROBERT MONTANEZ, DEAN,)
16)
17 Defendants.)
18)
19)

20
21 On August 13, 2010, Defendants Cosumnes River College and Robert Montanez filed a
22 Motion to Dismiss Plaintiff’s Complaint under Federal Rules of Civil Procedure, Rule 12(b)(6).
23 Plaintiff Glenn Pico filed an Opposition brief on September 7, 2010 and a “Notice of New
24 Events; Errata to Opposition” on September 29, 2010. Defendants filed a Reply brief and a
25 Request for Judicial Notice on October 13, 2010. Plaintiff filed a Response to Defendant’s
26 Request to Take Judicial Notice on October 13, 2010.

27 The Court heard this matter on October 20, 2010, the Honorable Judge John A. Mendez,
28 presiding. Kellie M. Murphy and Jason M. Sherman appeared on behalf of Defendants. James

1 Joseph Lynch, Jr. appeared on behalf of Plaintiff.

2 Having considered all matters submitted in the papers, all admissible evidence submitted
3 in connection therewith, the pleadings on file in this matter, and the applicable law, and
4 following oral argument, the Court finds and rules as follows:

5 A plaintiff must commence a civil action based on charges contained in an Equal
6 Employment Opportunity Commission complaint within **90 days** of receipt of the Notice of
7 Right to Sue. This 90-day time period is proscribed for civil actions brought under Title VII.
8 (42 U.S.C. § 2000e-5(f)(1).) It is undisputed that Plaintiff in this matter did not file a Complaint
9 within 90 days of receipt of his Notice of Right to Sue, and that the Complaint subject to this
10 motion was filed beyond the 90 day time period.

11 Defendants' Motion to Dismiss Plaintiff's entire Complaint is **GRANTED** with
12 prejudice. The Court directs the Clerk to enter judgment in favor of Defendants pursuant to Rule
13 58(a).

14
15 **IT IS SO ORDERED.**

16
17 Dated: October 21, 2010

/s/ John A. Mendez
The Honorable John A. Mendez