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

SCOTT N. JOHNSON,

Plaintiff,

No. 2:10-cv-02114 MCE KJN PS

v.

JANICE M. CONROY, Individually and
d/b/a WHISKEY DICKS, et al.,

Defendants.

ORDER and FINDINGS AND
RECOMMENDATIONS

_____ /
In an order entered April 1, 2011, the undersigned dismissed plaintiff's complaint without prejudice and provided plaintiff with leave to file a first amended complaint. (Order, Apr. 1, 2011, Dkt. No. 29.) On April 6, 2011, plaintiff filed a Request For Dismissal, requesting that the court dismiss this entire action with prejudice and close this case. (Req. for Dismissal, Dkt. No. 31.) Because at least some defendants previously filed documents that could be construed as answers to the complaint, plaintiff must obtain a dismissal by court order. See Fed. R. Civ. P. 41(a)(1). The undersigned recommends that plaintiff's complaint be dismissed with prejudice as requested, with each party to bear his or her own fees and costs.

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Based on plaintiff's Request for Dismissal, IT IS HEREBY RECOMMENDED

that:

1. Plaintiff's complaint be dismissed with prejudice, with each party to bear his or her own fees and costs.


2. The Clerk of Court be directed to close this case and vacate all dates in this case.

It is FURTHER ORDERED that all dates before the undersigned are vacated.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Id.; see also E. Dist. Local Rule 304(b). Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any response to the objections shall be filed with the court and served on all parties within fourteen days after service of the objections. E. Dist. Local Rule 304(d). Failure to file objections within the specified time may waive the right to appeal the District Court's order. Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir. 1991).

IT IS SO ORDERED and RECOMMENDED.

DATED: April 6, 2011


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE