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

DOUGLAS REAL,

Plaintiff,

No. CIV S-11-1821 GGH P

vs.

JALAL SOLTANIAN-ZADEH, et al.,

Defendants.

ORDER &  
FINDINGS AND RECOMMENDATIONS

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Plaintiff pro se, proceeding in forma pauperis, seeks relief pursuant 42 U.S.C. § 1983. By order filed on August 6, 2012, after recounting the multiple, but futile, efforts the court had made to serve defendant Heffner, the undersigned ordered plaintiff to show cause why this defendant should not be dismissed without prejudice, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. Plaintiff was therein informed that the court, under Rule 4(m), must dismiss without prejudice an action as to any defendant who has not been served within 120 days after a complaint has been filed “on motion or on its own after notice to the plaintiff” or specify a time for service to be effected; if “the plaintiff shows good cause for the failure, the court must extend the service for an appropriate period.” See Order, filed on Aug. 6, 2012. Plaintiff was granted fourteen days to show good cause for the failure for service to be effected upon defendant

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1 Heffner, and cautioned that failure to do so would result in this defendant's dismissal without  
2 prejudice pursuant to Fed. R. Civ. P. 4(m).

3 The time for providing a response has expired and plaintiff has neither shown  
4 good cause or otherwise responded to the order.

5 Accordingly, IT IS ORDERED that the Clerk of the Court make a district judge  
6 assignment to this case.

7 IT IS RECOMMENDED that defendant Heffner be dismissed from this action  
8 without prejudice pursuant to Fed. R. Civ. P. 4(m).

9 These findings and recommendations are submitted to the United States District  
10 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen  
11 days after being served with these findings and recommendations, plaintiff may file written  
12 objections with the court. Such a document should be captioned "Objections to Magistrate  
13 Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections  
14 within the specified time may waive the right to appeal the District Courts order. Martinez v.  
15 Ylst, 951 F.2d 1153 (9th Cir. 1991).

16 DATED: September 20, 2012

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18 /s/ Gregory G. Hollows  
19 UNITED STATES MAGISTRATE JUDGE

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