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

MIKAELLA CRISTINA ALFARO,

Plaintiff,

No. 2:12-cv-2293-JAM-EFB PS

vs.

VITAL RECORDS,

Defendant.

FINDINGS AND RECOMMENDATIONS

_____/

On September 6, 2012, plaintiff, proceeding in pro se, requested leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. The matter was referred to the undersigned by Local Rule 302(c)(21), pursuant to 28 U.S.C. § 636(b)(1).

On August 22, 2012, the undersigned issued findings and recommendations herein, finding that plaintiff had failed to demonstrate that she has insufficient assets to pay the filing fee and costs and provide the necessities of life for herself and her two dependents, and therefore recommending that plaintiff's application to proceed *in forma pauperis* be denied and that plaintiff be given thirty days in which to pay the filing fee of \$350.00. Dckt. No. 3.

On October 10, 2012, the findings and recommendations were adopted by the district judge; plaintiff's application to proceed *in forma pauperis* was denied; and plaintiff was given thirty days in which to pay the filing fee of \$350.00. Dckt. No. 4. The October 4 order further

1 stated that “[f]ailure to timely pay the filing fee will result in a recommendation by the
2 magistrate judge that this action be dismissed.”

3 Although the deadline has passed, the court docket reflects that plaintiff has not paid the
4 filing fee as ordered. Instead, plaintiff filed another application to proceed in forma pauperis.
5 Dckt. No. 6. However, that application once again fails to demonstrate that plaintiff has
6 insufficient assets to pay the filing fee and costs and provide the necessities of life for herself and
7 her two dependents. Therefore, the undersigned will recommend that this action be dismissed
8 for failure to prosecute. *See* Fed. R. Civ. P. 41(b); L.R. 110.

9 Accordingly, IT IS HEREBY RECOMMENDED that:

10 1. This action be dismissed pursuant to Federal Rule of Civil Procedure 41(b), based on
11 plaintiff’s failure to prosecute the action; and

12 2. The Clerk be directed to close this case.

13 These findings and recommendations are submitted to the United States District Judge
14 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
15 after being served with these findings and recommendations, any party may file written
16 objections with the court and serve a copy on all parties. Such a document should be captioned
17 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections
18 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*
19 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

20 DATED: November 13, 2012.

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23 EDMUND F. BRENNAN
24 UNITED STATES MAGISTRATE JUDGE
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