

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WADE THORNTON,

 Plaintiff,

 v.

D. DAHLE, et al.,

 Defendants.

No. 2:14-cv-1039 MCE AC P

ORDER AND FINDINGS &
RECOMMENDATIONS

On May 13, 2015, defendants filed a motion to compel plaintiff’s attendance at his deposition, for sanctions, and to modify the scheduling order. ECF No. 23. On May 27, 2015, the court filed an order granting the motion to modify the scheduling order and ordering plaintiff to respond to the motion to compel and for sanctions within fourteen days. ECF No. 24. Plaintiff was also ordered to either pay the filing fee in full or submit a non-prisoner application to proceed in forma pauperis within thirty days. Id. He was cautioned that failure to comply with the order would result in a recommendation that the action be dismissed without prejudice. Id. The fourteen and thirty day time periods have passed and plaintiff has not responded to the court’s order, filed an opposition to the motion to compel, paid the filing fee, or filed a non-prisoner application to proceed in forma pauperis.

Despite the fact that plaintiff has failed to respond to the motion to compel and for sanctions, the court will deny the motion and instead recommend that this action be dismissed

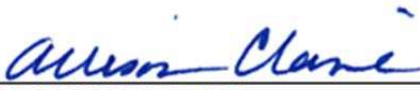
1 because plaintiff has failed comply with this court's order to pay the filing fee or file a non-
2 prisoner application to proceed in forma pauperis.¹

3 Accordingly, IT IS HEREBY ORDERED that defendants' motion to compel and for
4 sanctions (ECF No. 23) is denied.

5 IT IS FURTHER RECOMMENDED that this action be dismissed without prejudice.

6 These findings and recommendations are submitted to the United States District Judge
7 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
8 after being served with these findings and recommendations, any party may file written
9 objections with the court and serve a copy on all parties. Such a document should be captioned
10 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
11 objections shall be served and filed within fourteen days after service of the objections. The
12 parties are advised that failure to file objections within the specified time may waive the right to
13 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

14 DATED: July 12, 2015

15 
16 ALLISON CLAIRE
17 UNITED STATES MAGISTRATE JUDGE
18
19
20
21
22
23
24
25
26

27 _____
28 ¹ In the event the instant findings and recommendations are not adopted, the defendants may
renew their motion to compel and for sanctions.