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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

WICHELMAN, ET AL.,  
  
Plaintiff,  
  
v.  
  
SACRAMENTO HOUSING &  
REDEVELOPMENT AGENCY, ET AL.,  
  
Defendants.

No. 2:14-cv-1075-KJM-AC

ORDER

Plaintiff Karl Wichelman (“Plaintiff Wichelman”) has filed a motion for an extension of time to file an amended complaint that includes a request that the Court waive PACER’s usual fees. The Court grants plaintiffs’ motion in part for the reasons stated below.

PROCEDURAL BACKGROUND

On April 30, 2014, plaintiffs filed a complaint against the Sacramento Housing & Redevelopment Agency (“SHRA”), the Groves at Manzanita Apartments, Kandace Gusman, and Gary Fidler for violations of their First, Fourth, and Fourteenth Amendment rights under 42 U.S.C. § 1983. ECF No. 1. Plaintiffs then filed motions to proceed in forma pauperis on April 30 and May 14, 2014. ECF No. 2, 3. On July 2, 2014, the Court granted both plaintiffs’ motions and dismissed plaintiffs’ claims with instructions to file an amended complaint within 30 days. ECF No. 4. On August 14, 2014, the Court recommended that plaintiffs’ claims be dismissed without prejudice for failure to file an amended complaint in a timely manner. ECF No. 5. On

1 August 19, 2014, the Court's August 14, 2014, Findings and Recommendations ("Findings and  
2 Recommendations") were returned to it with a new address on the return label and a notation that  
3 the forward time had expired. On August 20, 2014, the Court served its Findings and  
4 Recommendations by mail to the address specified on the return label. On August 22, 2014,  
5 Plaintiff Wichelman promptly responded with a motion for an extension of time to file an  
6 amended complaint that included a request that the Court waive PACER's usual fees. ECF No. 6.

#### 7 DISCUSSION

8 Plaintiff Wichelman asks the Court to grant him an extension to file an amended  
9 complaint. The Court may accept a late filing when the moving party's failure to meet the  
10 deadline was the result of "excusable neglect." Fed. R. Civ. P. 6(b)(1)(B). Further, it is within  
11 the Court's discretion to determine whether to grant an extension of time. See Ahanchian v.  
12 Xenon Pictures, Inc., 624 F.3d 1253, 1258 (9th Cir. 2012). It seems that plaintiffs did not initially  
13 receive the Court's August 14, 2014, Findings and Recommendations because of a change in  
14 address. Once plaintiffs received the Court's Findings and Recommendations they promptly  
15 responded with a request for an extension. The reason for plaintiffs' failure to file a timely  
16 amended complaint now being apparent, the Court will vacate its recommendation to dismiss  
17 plaintiffs' claims and grant Plaintiff Wichelman's motion for an extension of 60 days.

18 Plaintiff Wichelman also requests that the Court waive PACER's usual fees. Plaintiff has  
19 not made a showing that his PACER fees should be waived. Exemptions from PACER user fees  
20 are uncommon. In forma pauperis status alone does not support a request to waive PACER fees.  
21 All parties and attorneys of record receive one free electronic copy of documents filed with the  
22 court if they are registered with the court's CM/ECF system. If not, a party will receive a copy of  
23 all orders and filed documents via mail. Further, if plaintiff chooses to access court records  
24 through PACER, the fee is a modest \$0.10 per page retrieved, and the charge for any single  
25 document has a cap of \$3.00 which is equivalent to 30 pages. In light of these procedures, which  
26 provide reasonable access, plaintiff has not justified the waiver of PACER fees.

27 Accordingly, IT IS HEREBY ORDERED that

- 28 1. The August 14, 2014, Findings and Recommendations (ECF No. 5) are vacated;

1           2.       Plaintiff's request for a 60 day extension to file an amended complaint (ECF No.  
2 6) is granted; and

3           3.       Plaintiff's request to waive PACER fees (ECF No. 6) is denied.

4 DATED: September 3, 2014

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6 ALLISON CLAIRE  
7 UNITED STATES MAGISTRATE JUDGE  
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