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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALVIN BOURN,
Plaintiff,
v.
RIVER CITY BANK, et al.,
Defendants.

No. 2:14-cv-1573 KJM CKD PS

ORDER AND
FINDINGS AND RECOMMENDATIONS

Plaintiff is proceeding pro se. Plaintiff has filed an in forma pauperis affidavit in which he states that his monthly take home pay is \$2151.28

Pursuant to federal statute, a filing fee of \$350.00 is required to commence a civil action in federal district court. 28 U.S.C. § 1914(a). In addition, a \$50.00 general administrative fee for civil cases must be paid. 28 U.S.C. § 1914(b). The court may authorize the commencement of an action “without prepayment of fees and costs or security therefor, by a person who makes affidavit that he is unable to pay such costs or give security therefor.” 28 U.S.C. § 1915(a). The amount of plaintiff’s income shows that plaintiff is able to pay the filing fee and costs. Thus, plaintiff has made an inadequate showing of indigency. See Alexander v. Carson Adult High Sch., 9 F.3d 1448 (9th Cir. 1993); California Men’s Colony v. Rowland, 939 F.2d 854, 858 (9th Cir. 1991); Stehouwer v. Hennessey, 841 F. Supp. 316, (N.D. Cal. 1994). Plaintiff will therefore be granted fourteen days in which to submit the appropriate fees to the Clerk of the Court.

1 Plaintiff is cautioned that failure to pay the filing and general administrative fees in the amount of
2 \$400 will result in a recommendation that the application to proceed in forma pauperis be denied
3 and the instant action be dismissed without prejudice.

4 Although plaintiff has filed a document titled a "Verified Complaint," the body of the text
5 and the exhibits attached thereto make readily apparent that plaintiff is in fact attempting to
6 remove three state court actions from the Superior Court of California, County of Sacramento in
7 which Alvin Bourn is the named plaintiff. Under 28 U.S.C. §§ 1441 and 1446, only a defendant
8 may remove an action to federal court. Because the actions were improvidently removed, the
9 matter should be remanded to state court. See 28 U.S.C. § 1447.

10 Accordingly, IT IS HEREBY ORDERED that within fourteen days plaintiff shall pay the
11 filing and general administrative fees in the amount of \$400; and

12 IT IS HEREBY RECOMMENDED that this action be remanded to the Superior Court of
13 California, County of Sacramento.

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

21 Dated: July 7, 2014

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23 _____
24 CAROLYN K. DELANEY
25 UNITED STATES MAGISTRATE JUDGE

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