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

JAMES JOHNSON,

No. 2:14-CV-2913-JAM-CMK

Plaintiff,

vs.

ORDER

PREMIERE CREDIT OF NORTH
AMERICA, LLC,

Defendant.

_____ /

Plaintiff, who is proceeding pro se, brings this civil action. Pending before the court is plaintiff's request for leave to proceed in forma pauperis (Doc. 2). Plaintiff has submitted the affidavit required by 28 U.S.C. § 1915(a) showing that plaintiff is unable to prepay fees and costs or give security therefor. Plaintiff's request for leave to proceed in forma pauperis will be granted.

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). The court is also required to screen complaints brought by litigants who have been granted leave to proceed in forma pauperis. See 28 U.S.C. § 1915(e)(2). Under these screening

1 provisions, the court must dismiss a complaint or portion thereof if it: (1) is frivolous or
2 malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief
3 from a defendant who is immune from such relief. See 28 U.S.C. §§ 1915(e)(2)(A), (B) and
4 1915A(b)(1), (2). Moreover, pursuant to Federal Rule of Civil Procedure 12(h)(3), this court
5 must dismiss an action if the court determined that it lacks subject matter jurisdiction. Because
6 plaintiff, who is not a prisoner, has been granted leave to proceed in forma pauperis, the court
7 will screen the complaint pursuant to § 1915(e)(2). Pursuant to Rule 12(h), the court will also
8 consider as a threshold matter whether it has subject-matter jurisdiction.

9 Plaintiff alleges violations of the Fair Debt Collection Practices Act, Telephone
10 Consumer Protection Act, and various state statutes. Specifically, plaintiff claims defendant
11 engaged in a series of harassing phone calls beginning in October 2014 related to the collection
12 of student loan debt. The court concludes that it has subject matter jurisdiction based on
13 plaintiff's allegations of diversity and that the complaint is appropriate for service by the United
14 States Marshal without pre-payment of costs. If plaintiff desires service of process by the United
15 States Marshal without pre-payment of costs, plaintiff must comply with the requirements
16 outlined below. Plaintiff is warned that failure to comply with this order, or otherwise effect
17 service pursuant to Federal Rule of Civil Procedure 4, may result in dismissal of the action for
18 lack of prosecution and failure to comply with court rules and orders. See Local Rule 110.

19 Accordingly, IT IS HEREBY ORDERED that:

- 20 1. Plaintiff's request (Doc. 2) is granted;
- 21 2. The Clerk of the Court shall issue a summons in a civil case, the
22 undersigned's new case documents, and an order setting this matter for an initial scheduling
23 conference;
- 24 3. The Clerk of the Court shall send plaintiff the summons, one USM-285
25 forms, and a copy of the complaint;

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1 4. Within 15 days from the date of this order, plaintiff shall complete the
2 summons by indicating the addresses of the named defendants and shall submit to the United
3 States Marshal at the address indicated below the following documents:

- 4 a. The completed summons;
5 b. One completed USM-285 form for each named defendant;
6 c. Two copies of the complaint; and
7 d. One copy of the court's initial scheduling conference order issued
8 herewith;

9 5. Within 20 days of the date of this order, plaintiff shall file a notice
10 indicating that the documents described above have been submitted to the United States Marshal,
11 or a notice that plaintiff intends to serve the summons and complaint without assistance from the
12 United States Marshal;

13 6. If plaintiff seeks the assistance of the United States Marshal, the United
14 States Marshal is directed to serve all process without pre-payment of costs not later than 60 days
15 from the date of this order, such service of process to be completed by serving a copy of the
16 summons, complaint, and initial scheduling conference order on the defendants at the addresses
17 provided by plaintiff; and

18 7. The Clerk of the Court is directed to serve a copy of this order on the
19 United States Marshal at 501 "I" Street, Sacramento, CA, 95814.

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21 DATED: January 15, 2015

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23 **CRAIG M. KELLISON**
24 UNITED STATES MAGISTRATE JUDGE
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