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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DONELLE McClAIN, on behalf of  
IMHOTEP SALAT  
  
Plaintiff,  
  
v.  
  
MARY STRAND, et al.,  
  
Defendants.

No. 2:15-cv-2009 KJM CKD PS

FINDINGS AND RECOMMENDATIONS

This action was filed by plaintiff’s guardian<sup>1</sup> in propria persona on behalf of plaintiff. An incompetent person can only proceed if represented by counsel. See Johns v. County of San Diego, 114 F.3d 874 (9th Cir. 1997) (citations omitted) (“It goes without saying that it is not in the interest of minors or incompetents that they be represented by non-attorneys. Where they have claims that require adjudication, they are entitled to trained legal assistance so their rights may be fully protected.”). By order filed September 25, 2015, plaintiff was granted thirty days to obtain counsel. Plaintiff was also cautioned that failure to timely obtain counsel would result  
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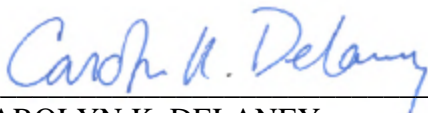
<sup>1</sup> Attached to the complaint are several exhibits purportedly filed in the Eighth Judicial District Court of the State of Nevada in and for the County of Clark which allegedly demonstrate that Donnelle McClain has been appointed guardian for Imhotep Salat due to his incompetence.

1 in a recommendation that the action be dismissed without prejudice. Plaintiff has failed to obtain  
2 counsel and has not otherwise responded to the court's order.

3 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without  
4 prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

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

12 Dated: November 3, 2015

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15 CAROLYN K. DELANEY  
16 UNITED STATES MAGISTRATE JUDGE

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