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

MICHALLA C. ALFARO BRITTANY, No. 2:16-CV-0867-JAM-CMK

Plaintiff,

vs.

FINDINGS AND RECOMMENDATIONS

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

_____ /

Plaintiff, who is proceeding pro se, brings this civil action. Pending before the court is plaintiff's complaint (Doc. 1).

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 provisions, the court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. §§ 1915(e)(2)(A), (B) and

1 1915A(b)(1), (2). Moreover, pursuant to Federal Rule of Civil Procedure 12(h)(3), this court
2 must dismiss an action if the court determines that it lacks subject matter jurisdiction. Because
3 plaintiff, who is not a prisoner, has been granted leave to proceed in forma pauperis, the court
4 will screen the complaint pursuant to § 1915(e)(2). Pursuant to Rule 12(h)(3), the court will also
5 consider as a threshold matter whether it has subject-matter jurisdiction.

6 In this case, plaintiff alleges that the Social Security Administration has not
7 removed her daughter as her payee. Plaintiff does not allege any facts, however, to show how, if
8 at all, her constitutional or statutory rights have been violated, or by whom. Nor does plaintiff
9 allege any facts to show what efforts, if any, she made to resolve the issue at the agency level.
10 Because plaintiff has not alleged any claim upon which relief can be granted, the complaint
11 should be dismissed.

12 Based on the foregoing, the undersigned recommends that this action be dismissed
13 for failure to state a claim.

14 These findings and recommendations are submitted to the United States District
15 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days
16 after being served with these findings and recommendations, any party may file written
17 objections with the court. Responses to objections shall be filed within 14 days after service of
18 objections. Failure to file objections within the specified time may waive the right to appeal.

19 See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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21 DATED: August 23, 2017

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