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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TOMO SHIBATA,
Plaintiff,
v.
G4S SECURE SOLUTIONS (USA) INC.,
Defendant.

No. 2:17-cv-1208 TLN AC (PS)

FINDINGS AND RECOMMENDATIONS

Plaintiff is proceeding in this action pro se. The action was accordingly referred to the undersigned for pretrial matters by E.D. Cal. R. (“Local Rule”) 302(c)(21). On June 12, 2017, the court instructed plaintiff that she needed to file a complaint compliant with the Federal Rules of Civil Procedure in order for the case to proceed. ECF No. 2. The court granted plaintiff 30 days to submit a complaint. *Id.* On July 12, 2017, plaintiff submitted a “status report” that cannot be construed as a complaint or a request for an extension of time. ECF No. 3. On July 14, 2017, the court issued an order to show cause why the case should not be dismissed for failure to prosecute, providing plaintiff 14 days to respond. ECF No. 4. Plaintiff was cautioned that failure to comply could lead to a recommendation that the action be dismissed.

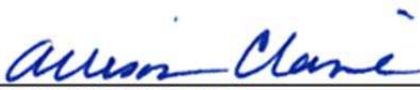
Plaintiff submitted a response that does not indicate that plaintiff will have any ability to submit a complaint compliant with the Federal Rules of Civil Procedure. ECF No. 5. In this document, plaintiff moves the court to dismiss the case without prejudice, and asks the court to

1 refund her filing fee. Id. at 5. While the court finds that dismissal without prejudice is
2 appropriate, the court will not refund plaintiff's filing fee. "[N]umerous courts have found that
3 the voluntary dismissal of an action . . . does not entitle the litigant to a refund of filing fees."
4 Grindling v. Martone, No. CIV. 12-00361 LEK, 2012 WL 4502954, at *2 (D. Haw. Sept. 28,
5 2012). Here, plaintiff chose to file this action and pay the filing fee, and despite having never
6 filed a complaint, she has nonetheless submitted several filings for this court's consideration. No
7 refund is warranted.

8 Therefore, IT IS HEREBY RECOMMENDED that this action be dismissed, without
9 prejudice, for lack of prosecution and for failure to comply with the court's order. See Fed. R.
10 Civ. P. 41(b) (lack of prosecution); Local Rule 110 (failure to comply with court orders).

11 These findings and recommendations are submitted to the United States District Judge
12 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one
13 (21) days after being served with these findings and recommendations, plaintiff may file written
14 objections with the court. Such document should be captioned "Objections to Magistrate Judge's
15 Findings and Recommendations." Local Rule 304(d). Plaintiff is advised that failure to file
16 objections within the specified time may waive the right to appeal the District Court's order.
17 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

18 DATED: August 2, 2017

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20 ALLISON CLAIRE
21 UNITED STATES MAGISTRATE JUDGE
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