

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CARL FOUST,
Plaintiff,
v.
HARDIN INSURANCE COMPANY, et
al.,
Defendants.

No. 2:17-cv-1227 JAM CKD P

FINDINGS AND RECOMMENDATIONS

By order filed July 19, 2017, plaintiff's complaint was dismissed and thirty days leave to file an amended complaint was granted. The thirty day period has now expired, and plaintiff has not filed an amended complaint.¹

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

///

¹ The court has received letters from Richard Treg and Philip Stamps, both of whom assert that they have been assisting Mr. Foust in the preparation of legal documents. ECF Nos. 12 and 22. Both men state that Mr. Foust is intellectually disabled, and request that the court reconsider its orders denying the appointment of counsel. ECF Nos. 11 and 21. The court declines to revisit its earlier orders, given the deficiencies in the substance of Mr. Foust's complaint against Hardin Insurance Company. Although the court provided Mr. Foust an opportunity to amend the complaint, it does not appear that amendment would cure the problem: Mr. Foust's displeasure that the insurance company mailed him a check instead of delivering it personally does not state a claim under federal law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen after being served with these findings and recommendations, plaintiff may file written objections with the court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time waives the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: September 22, 2017



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

1
fous1277.fta