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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	VADIM EVENBACH,	No. 2:17-cv-02174-KJN
12	Plaintiff,	
13	v.	ORDER AND FINDINGS AND RECOMMENDATIONS
14	COMMISSIONER OF SOCIAL	
15	SECURITY, Defendant.	
16	Defendant.	
17		
18	On October 18, 2017, defendant filed a notice, removing this Social Security action from	
19	California State Court to the United States District Court, pursuant to 28 U.S.C. §§ 1441 and	
20	1442. ¹ (ECF No. 1.) Previously, on October 12, 2017, this matter was dismissed for lack of	
21	jurisdiction by the Sacramento County Superior Court – Small Claims Division. (See ECF No. 5;	
22	Case No. 17SC03292.) As a result, when defendant filed the notice of removal, there was no	
23	open case to remove to federal court. Therefore, the court concludes that removal was not	
24	appropriate and this matter should be dismissed without prejudice. ²	
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26	¹ Because plaintiff proceeds pro se, this case was referred to the undersigned pursuant to E.D. Cal. L.R. 302(c)(21).	
27	² Dismissal of this case will not affect plaintiff's ability to appeal the decision of the	
28	Commissioner of Social Security, if such appeal is otherwise available.	

Accordingly, it is HEREBY ORDERED that the Clerk of Court shall randomly assign a United States District Judge to this action, in light of the following findings and recommendations. Furthermore, it is HEREBY RECOMMENDED that: 1. This matter be DISMISSED without prejudice. 2. The Clerk of Court be directed to closed this case and vacate all future dates. 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 (14) days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections shall be served on all parties and filed with the court within fourteen (14) days after service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir. 1991). IT IS SO ORDERED AND RECOMMENDED. Dated: October 30, 2017 UNITED STATES MAGISTRATE JUDGE 14/ss.17-2174.evenbach.F&R.dismissal