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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSE LUIS ALMARAZ,
Plaintiff,
v.
COUNTY OF SAN JOAQUIN, et al.,
Defendants.

No. 2: 20-cv-2444 KJN P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff is a county prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Attached to plaintiff’s complaint is a request to bring this action as a class action. (ECF No. 1 at 20-26.) For the reasons stated herein, the undersigned recommends that plaintiff’s request to bring a class action be denied.

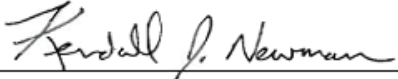
Plaintiff is a non-lawyer proceeding without counsel. It is well established that a layperson cannot ordinarily represent the interests of a class. See McShane v. United States, 366 F.2d 286 (9th Cir. 1966). This rule becomes almost absolute when, as here, the putative class representative is incarcerated and proceeding pro se. Oxendine v. Williams, 509 F.2d 1405, 1407 (4th Cir. 1975). In direct terms, plaintiff cannot “fairly and adequately protect the interests of the class,” as required by Rule 23(a)(4) of the Federal Rules of Civil Procedure. See Martin v. Middendorf, 420 F. Supp. 779 (D.D.C. 1976). This action, therefore, will not be construed as a class action and instead will be construed as an individual civil suit brought by plaintiff.

1 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall appoint a
2 district judge to this action;

3 IT IS HEREBY RECOMMENDED that plaintiff's request to bring a class action be
4 denied.

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, plaintiff may file written objections
8 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." Plaintiff is advised that
10 failure to file objections within the specified time may waive the right to appeal the District
11 Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

12 Dated: March 9, 2021

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14 _____
15 KENDALL J. NEWMAN
16 UNITED STATES MAGISTRATE JUDGE

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