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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN MILWITT,

No. C 09-0576 MEJ

Plaintiff(s),

**ORDER FOR CLERK OF COURT TO
REASSIGN CASE**

vs.

REPORT & RECOMMENDATION

KEVIN RYAN, et al.,

Defendant(s).

On February 6, 2009, Plaintiff John Milwitt filed the above-captioned case and an Application to Proceed In Forma Pauperis. On February 12, 2009, the Court ordered Plaintiff to either consent or decline magistrate jurisdiction by March 5, 2009. (Dkt. #4.) Plaintiff failed to comply with this deadline and has made no further appearances since his initial filings..

Based on Plaintiff's inaction, the Court ordered him to show cause why this case should not be dismissed for failure to prosecute and comply with court deadlines. (Dkt. #6.) The Court ordered Plaintiff to file a declaration by April 2, 2009, and scheduled an order to show cause hearing on April 9, 2009.

On April 9, 2009, the Court conducted an order to show cause hearing. Plaintiff failed to appear at the hearing and failed to file any declaration. Based on this procedural history, the Court finds it appropriate to dismiss this case pursuant to Federal Rule of Civil Procedure 41(b). Accordingly, because Plaintiff has yet to consent to the undersigned's jurisdiction, the Court hereby **ORDERS** the Clerk of Court to reassign this case to a district court judge. The undersigned

1 RECOMMENDS that the newly-assigned judge dismiss this case for failure to prosecute and failure
2 to comply with the Court's deadlines and orders.

3 Pursuant to Federal Rule of Civil Procedure 72, any party may serve and file objections to
4 this Report and Recommendation within 10 days after being served.

5 **IT IS SO ORDERED AND RECOMMENDED.**

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7 Dated: April 9, 2009


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9 MARIA-ELENA JAMES
10 United States Magistrate Judge
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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 JOHN MILWITT,
5 Plaintiff,

Case Number: CV09-0576 MEJ

CERTIFICATE OF SERVICE

6 v.

7 KEVIN RYAN, et al.,
8 Defendant.

9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
10 Court, Northern District of California.

11 That on April 9, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
13 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
14 receptacle located in the Clerk's office.

14 John Milwitt
15 708 North Gravenstein Hwy
16 Sebastopol, CA 95472

17 Dated: April 9, 2009

18 Richard W. Wieking, Clerk
19 By: Brenda Tolbert, Deputy Clerk