

1 notified Plaintiff that failure to pay the filing fee or file an application to proceed *in forma pauperis* by
2 May 20, 2009 would result in a recommendation that this action be dismissed with prejudice. (*Id.*) To
3 date, Plaintiff has failed to pay the filing fee or file an application to proceed *in forma pauperis* and the
4 time allowed has expired. As a result, the Court will recommend that this action be dismissed with
5 prejudice. Accordingly,

6 **IT IS HEREBY RECOMMENDED** that Plaintiff's Amended Complaint (Dkt. #6) should be
7 **DISMISSED with prejudice** based on Plaintiff's failure to pay the complaint filing fee or file an
8 application to proceed *in forma pauperis* within the time allotted by the Court.

9 **NOTICE**

10 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in
11 writing and filed with the Clerk of the Court within ten (10) days. The Supreme Court has held that the
12 courts of appeal may determine that an appeal has been waived due to the failure to file objections
13 within the specified time. *Thomas v. Arn*, 474 U.S 140, 142 (1985). This circuit has also held that (1)
14 failure to file objections within the specified time and (2) failure to properly address and brief the
15 objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues
16 from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi*
17 *Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

18 DATED this 13th day of July, 2008.

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21 **GEORGE FOLEY, JR.**
22 **UNITED STATES MAGISTRATE JUDGE**
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