

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Larry L. Tionson v. Jeffrey Macomber, et al.

No. 2:24-cv-02898-EFB (PC) · No. No. 2:24-cv-02898-EFB (PC) · Decided December 2, 2025

SUMMARY

The court recommends striking the plaintiff’s unsigned complaint and dismissing the action without prejudice because the plaintiff failed to submit a signed complaint after being ordered to do so. The document also orders the Clerk to randomly assign a district judge and advises the parties regarding objections to the findings and recommendations.

OPINION

Macomber

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 LARRY L. TIONSON, No. 2:24-cv-02898-EFB (PC)

12 Plaintiff,

13 v. ORDER AND FINDINGS AND

RECOMMENDATIONS

14 JEFFREY MACOMBER, et al., 15 Defendants. 16 Plaintiff, a state inmate, proceeds without
counsel in an action brought under 42 U.S.C. § 17 1983. This proceeding was referred to this court
by Local Rule 302 pursuant to 28 U.S.C. § 18 636(b)(1). 19 On September 5, 2025, the court
ordered plaintiff to submit a signed complaint within 30 20 days. ECF No. 7. The order warned
plaintiff that failure to submit a signed complaint would lead 21 to a recommendation that the case
be dismissed. The time for acting has now passed and plaintiff 22 has not filed a signed complaint
or otherwise responded to the court’s order. 23 The Federal Rules of Civil Procedure require an
operative complaint. Fed. R. Civ. P. 3 24 (“A civil action is commenced by filing a complaint with
the court.”). A complaint that is not 25 signed after a party has been given an opportunity to do so
must be stricken. Fed. R. Civ. P. 26 11(a); *West v. Hulbert*, No. 1:16-CV-00046-DAD, 2016 U.S.
Dist. LEXIS 64378, at *1 (E.D. Cal. 27 May 16, 2016) (“Because the Court cannot consider
unsigned filings, the complaint must be 28 1 | stricken”); *Anderson v. Krpan*, No. 1:14-CV-01380-
AWWI, 2015 U.S. Dist. LEXIS 11412, at *5 2 | (E.D. Cal. Jan. 29, 2015) (same). Thus, plaintiff’s
unsigned complaint must be stricken. 3 Without an operative complaint, the action should be

dismissed. See *Ferdik v. Bonzelet*, 4 | 963 F.2d 1258, 1262 (9th Cir. 1992). 5 Accordingly, it is ORDERED that the Clerk of Court randomly assign a district judge to 6 || this action. It is RECOMMENDED that the complaint be stricken and this action be dismissed 7 || without prejudice for failure to submit a signed complaint. Fed. R. Civ. P. 11(a). 8 These findings and recommendations are submitted to the United States District Judge 9 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days 10 || after being served with these findings and recommendations, any party may file written 11 || objections with the court and serve a copy on all parties. Such a document should be captioned 12 || “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the 13 || objections shall be served and filed within fourteen days after service of the objections. The 14 | parties are advised that failure to file objections within the specified time may waive the right to 15 || appeal the District Court’s order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez* 16 | *v. Yist*, 951 F.2d 1153 (9th Cir. 1991). 17 18 || Dated: December 2, 2025 _ittidl Hema

EDMUND F. BRENNAN

19 UNITED STATES MAGISTRATE JUDGE

20 21 22 23 24 25 26 27 28