



1 On September 14, 2016, the new case documents and court orders were returned by the United  
2 States Postal Service as “undeliverable, discharged.” As of the date of these findings and  
3 recommendations, Plaintiff has not provided any updated mailing address to the Court or otherwise  
4 responded to any of the Court’s orders.

5  
6 **II.**  
**DISCUSSION**

7 Plaintiff is required to keep the Court apprised of his current address at all times. Local Rule  
8 183(b) provides:

9 **Address Changes.** A party appearing in propria persona shall keep the Court and  
10 opposing parties advised as to his or her current address. If mail directed to a plaintiff  
11 in propria persona by the Clerk is returned by the U.S. Postal Service, and if such  
12 plaintiff fails to notify the Court and opposing parties within sixty-three (63) days  
thereafter of a current address, the Court may dismiss the action without prejudice for  
failure to prosecute.

13 Federal Rule of Civil Procedure 41(b) also provides for dismissal of an action for failure to prosecute.<sup>1</sup>

14 In this case Plaintiff’s address change was due no later than November 21, 2016. Nevertheless,  
15 Plaintiff has failed to file any change of address form and he has not otherwise been in contact with  
16 the Court.

17 “In determining whether to dismiss an action for lack of prosecution, the district court is  
18 required to weigh several factors: (1) the public’s interest in expeditious resolution of litigation; (2) the  
19 court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy  
20 favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions.” Carey v.  
21 King, 856 F.2d 1439, 1440 (9th Cir. 1988) (internal quotation marks and citation omitted); accord  
22 Omstead v. Dell, Inc., 594 F.3d 1081, 1084 (9th Cir. 2010); In re Phenylpropanolamine (PPA) Prods.  
23 Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006). These factors guide a court in deciding what to do,  
24 and are not conditions that must be met in order for a court to take action. In re PPA, 460 F.3d at 1226  
25 (citation omitted).

26 Plaintiff’s failure to comply with this Court’s rules, the expeditious resolution of litigation and  
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28 <sup>1</sup> Courts may dismiss actions sua sponte under Rule 41(b) based on the plaintiff’s failure to prosecute. Hells  
Canyon Preservation Council v. U. S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005) (citation omitted).

1 the Court's need to manage its docket weigh in favor of dismissal. *Id.* at 1227. More importantly,  
2 given the Court's apparent inability to communicate with Plaintiff, there are no other reasonable  
3 alternatives available to address Plaintiff's failure to prosecute this action and his failure to apprise the  
4 Court of his current address. *In re PPA*, 460 F.3d at 1228-29; *Carey*, 856 F.2d at 1441. The Court will  
5 therefore recommend that this action be dismissed based on Plaintiff's failure to prosecute this action.

6  
7 **III.**  
**CONCLUSION, ORDER, AND RECOMMENDATION**

8 Accordingly, it is HEREBY ORDERED that the Clerk of the Court is directed to randomly  
9 assign a United States District Judge to this action.

10 Furthermore, for the reasons stated above, it is HEREBY RECOMMENDED that this action  
11 be dismissed, without prejudice, based on Plaintiff's failure to prosecute. Fed. R. Civ. P. 41(b); Local  
12 Rule 183(b).

13 These Findings and Recommendations will be submitted to the United States District Judge  
14 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen (14)**  
15 **days** after being served with these Findings and Recommendations, Plaintiff may file written  
16 objections with the Court. The document should be captioned "Objections to Magistrate Judge's  
17 Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified  
18 time may result in the waiver of the "right to challenge the magistrate's factual findings" on appeal.  
19 *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391,  
20 1394 (9th Cir. 1991)).

21  
22 IT IS SO ORDERED.

23 Dated: **December 1, 2016**

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26 UNITED STATES MAGISTRATE JUDGE  
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