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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

8 JoAn Ada Gividen,

9 Plaintiff,

10 v.

11 Dr. Luciano Fochesatto, M.D., *et al.*

12 Defendants.
13

No. CV-17-00118-TUC-JGZ (BGM)

14 **REPORT AND RECOMMENDATION**

15 Currently pending before the Court is Defendants' Request for Summary Ruling
16 on Motion to Dismiss (Doc. 15). On July 17, 2017, the Defendants filed a Motion to
17 Dismiss (Doc. 12). On July 24, 2017, the Court issued a *Stratton*¹ notice to Plaintiff
18 informing her that she had until August 28, 2017 to file her response. Order 7/24/2017
19 (Doc. 14). On that same date, the Court again warned Plaintiff that her failure to comply
20 with the provisions of the Order could result in dismissal of her claims. *See id.*

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22 On or about August 18, 2017, Plaintiff left a voicemail with undersigned's office
23 indicating that she had been ill and needed additional time; however, Plaintiff did not
24 indicate how much additional time, file such request with the Court, or call again.
25 Moreover, the Court does not accept telephonic requests. *See* LRCiv. 7.3.
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¹ *Stratton v. Buck*, 697 F.3d 1004 (9th Cir. 2012).


1 In light of Plaintiff's failure to comply with the Court's July 24, 2017 Order (Doc.
2 14), the Magistrate Judge recommends dismissal of this cause of action. *See Ferdik v.*
3 *Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss an action
4 for failure to comply with any order of the Court).
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6 For the reasons delineated above, the Magistrate Judge recommends that the
7 District Judge enter an order:
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- 9 1) DISMISSING this matter WITHOUT PREJUDICE;
- 10 2) DENYING AS MOOT Defendants' Motion to Dismiss Complaint (Doc.
11 12); and
- 12 3) DENYING AS MOOT Defendants' Request for Summary Ruling on
13 Motion to Dismiss (Doc. 15).
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15 Pursuant to 28 U.S.C. §636(b) and Rule 72(b)(2) of the Federal Rules of Civil
16 Procedure, any party may serve and file written objections within fourteen (14) days after
17 being served with a copy of this Report and Recommendation. A party may respond to
18 another party's objections within fourteen (14) days after being served with a copy. Fed.
19 R. Civ. P. 72(b)(2). If objections are not timely filed, they may be deemed waived. If
20 objections are filed, the parties should use the following case number: **CV-17-0118-**
21 **TUC-JGZ.**
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24 Dated this 7th day of September, 2017.
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28 Honorable Bruce G. Macdonald
United States Magistrate Judge