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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BENICIA FUENTES, et al.,

CASE NO. 1:10-cv-01628-LJO-SMS

Plaintiff,

FINDINGS AND RECOMMENDATIONS
RECOMMENDING THAT COMPLAINT
BE DISMISSED WITHOUT PREJUDICE FOR
FAILURE TO PROSECUTE

v.

CITY OF FRESNO, et al.,

Defendants.

(Doc. 46)

On November 17, 2011, the Court entered an order, returnable on December 21, 2011, requiring Plaintiff to show cause why the complaint in this matter should not be dismissed for failure to prosecute. Plaintiff’s attorney Yan Shrayberman appeared on behalf of himself and attorney Mario DiSalvo; Brande Lynn Gustafson appeared for Defendants. Plaintiff Benicia Fuentes did not personally appear.

As is documented in the record and will not be detailed in this order, because Plaintiff’s counsel have been unable to locate Plaintiff Benicia Fuentes, *guardian ad litem* for minor Plaintiffs L.G. and J.G., despite repeated and exhaustive efforts, counsel are unable to proceed in the prosecution of this case. Having heard the argument and having reviewed in detail the case record and applicable law, the undersigned recommends that this case be dismissed without prejudice for failure to prosecute.

These Findings and Recommendations will be submitted to the Honorable Lawrence J. O’Neill, United States District Judge, pursuant to the provisions of 28 U.S.C § 636(b)(1). Within **fourteen days (14) days** after being served with these Findings and Recommendations, any party may file written objections with the Court. Any such document should be captioned “Objections

1 to Magistrate Judge’s Findings and Recommendations.” Each party is advised that, by failing to
2 file objections within the specified time, she or he may waive the right to appeal the District
3 Court’s order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

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5 IT IS SO ORDERED.

6 **Dated: December 29, 2011**

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE

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