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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JAMES HANCOCK,)	Case No.: 1:13-cv-00325-LJO-SAB (PC)
)	
Plaintiff,)	
)	FINDINGS AND RECOMMENDATION
v.)	RECOMMENDING DISMISSAL OF ACTION
)	FOR FAILURE TO PROSECUTE
A. LEONG, et al.,)	
)	[ECF No. 35]
Defendants.)	
)	
)	
)	

Plaintiff James Hancock is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On April 24, 2015, the Court issued an order to show cause within thirty days as to why the action should not be dismissed for failure to update his address of record and failure to prosecute this action. (ECF No. 35.) The thirty day time period has expired and Plaintiff has failed to respond to the Court's order.

"In determining whether to dismiss an action for lack of prosecution, the district court is required to consider several factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions." Carey v. King, 856 F.2d 1439, 1440 (9th Cir. 1988) (internal quotation marks and citation omitted); accord Omstead v. Dell, Inc., 594 F.3d 1081, 1084 (9th Cir. 2010); In re Phenylpropanolamine (PPA)

1 Products Liability Litigation, 460 F.3d 1217, 1226 (9th Cir. 2006). These factors guide a court in
2 deciding what to do, and are not conditions that must be met in order for a court to take action. In re
3 PPA, 460 F.3d at 1226 (citation omitted).

4 This case has been pending since 2013, and the expeditious resolution of litigation and the
5 Court's need to manage its docket weigh in favor of dismissal. Id. at 1227. Further, the opposing
6 party is necessarily prejudiced when he is unaware of the plaintiff's location during the discovery
7 phase of the litigation. Id.

8 With respect to the fourth factor, "public policy favoring disposition of cases on their merits
9 strongly counsels against dismissal," but "this factor lends little support to a party whose responsibility
10 it is to move a case toward disposition on the merits but whose conduct impedes progress in that
11 direction." Id. at 1228.

12 Finally, given the Court's and Defendant's inability to communicate with Plaintiff, there are no
13 other reasonable alternatives available to address Plaintiff's failure to prosecute. In re PPA, 460 F.3d
14 at 1228-29; Carey, 856 F.2d at 1441.

15 Accordingly, the Court HEREBY RECOMMENDS DISMISSAL of this action, without
16 prejudice, based on Plaintiff's failure to prosecute. Fed. R. Civ. P. 41(b); Local Rule 183(b).

17 This Findings and Recommendation will be submitted to the United States District Judge
18 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen (14)**
19 **days** after being served with these Findings and Recommendation, the parties may file written
20 objections with the Court. The document should be captioned "Objections to Magistrate Judge's
21 Findings and Recommendation." The parties are advised that failure to file objections within the
22 specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-
23 39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

24
25 IT IS SO ORDERED.

26 Dated: June 2, 2015

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28 UNITED STATES MAGISTRATE JUDGE

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