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

CARLOS HERNANDEZ,  
  
Plaintiff,  
  
v.  
  
CAROLYN W. COLVIN, Acting  
Commissioner of Social Security  
  
Defendant.

**Case No. 1:15-cv-00110-LJO-SMS**  
  
**FINDINGS AND RECOMMENDATIONS  
RECOMMENDING DISMISSAL OF CASE FOR  
FAILURE TO PROSECUTE**

On January 22, 2015, Plaintiff Carlos Hernandez, proceeding *pro se*, filed a complaint seeking review of the Commissioner's denial of his application for unspecified disability benefits under the Social Security Act (42 U.S.C. § 301 *et seq.*) (the "Act"). On February 2, 2015, after screening the complaint, the Court dismissed it with leave to amend within thirty (30) days to provide certain omitted information. Plaintiff neither filed an amended complaint nor responded in any other way. As a result, on March 10, 2015, the Court issued an order to show cause within fifteen days why this case should not be dismissed for Plaintiff's failure to follow a court order. Again, Plaintiff did not respond in any way.

The Court has the inherent power to control its docket and may, in the exercise of that power, impose sanctions where appropriate, including dismissal of the action. *Bautista v. Los Angeles County*, 216 F.3d 837, 841 (9th Cir. 2000). In determining whether to dismiss an action,

1 the Court must weigh “(1) the public’s interest in expeditious resolution of litigation; (2) the  
2 court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy  
3 favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions.” *In*  
4 *re Phenylpropanolamine (PPA) Products Liability Litigation*, 460 F.3d 1217, 1226 (9th Cir.  
5 2006), quoting *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987).  
6

7 Based on Plaintiff’s failure to comply with or otherwise respond to the above orders, the  
8 Court is left with no alternative but to dismiss the action for failure to prosecute. *Id.* This action  
9 cannot proceed without Plaintiff’s cooperation and compliance with the orders at issue.

10 Accordingly, the undersigned recommends that this action be DISMISSED without  
11 prejudice for failure to follow the Court's orders.

12 These findings and recommendations are submitted to the Honorable Lawrence J. O'Neill,  
13 United States District Court Judge, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and  
14 Rule 72-304 of the Local Rules of Practice for the United States District Court, Eastern District of  
15 California. Within fifteen (15) days after being served with a copy, Plaintiff may file written  
16 objections with the court, which should be captioned “Objections to Magistrate Judge’s Findings  
17 and Recommendations.” The Court will then review the Magistrate Judge’s ruling pursuant to 28  
18 U.S.C. § 636(b)(1)(C). Plaintiff advised that failure to file objections within the specified time  
19 may waive the right to appeal the District Court’s order. *Martinez v. Ylst*, 951 F.2d 1153 (9<sup>th</sup> Cir.  
20 1991).  
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24 IT IS SO ORDERED.

25 Dated: April 6, 2015

/s/ Sandra M. Snyder  
26 UNITED STATES MAGISTRATE JUDGE  
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