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

SIMON THORNTON,)	Case No.: 1:15-cv-00144-AWI-SAB (PC)
)	
Plaintiff,)	
)	FINDINGS AND RECOMMENDATION
v.)	RECOMMENDING DISMISSAL OF ACTION
)	FOR FAILURE TO STATE A COGNIZABLE
L. DILEO, et al.,)	CLAIM FOR RELIEF
)	
Defendants.)	[ECF Nos. 10, 11, 12]
)	
)	

Plaintiff Simon Thornton is appearing pro se in this civil rights action pursuant to 42 U.S.C. § 1983.

On May 21, 2015, the Court dismissed Plaintiff’s amended complaint for failure to state a cognizable claim for relief and Plaintiff was granted thirty days to file a second amended complaint. 28 U.S.C. § 1915A; 28 U.S.C. § 1915(e). Plaintiff was warned that if he failed to comply, this action would be dismissed, with prejudice, for failure to state a claim. (ECF No. 10 at 5:11-12.) On July 1, 2015, Plaintiff received a thirty day extension of time (ECF No. 12); however, more than thirty days have passed, and Plaintiff has not complied with or otherwise responded to the order.

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 Cnty., 216 F.3d 837, 841 (9th Cir. 2000). In determining whether to dismiss an action, the Court must weigh “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its

1 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases
2 on their merits; and (5) the availability of less drastic sanctions.” In re Phenylpropanolamine (PPA)
3 Prod. Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006) (internal quotations and citations omitted).
4 These factors guide a court in deciding what to do, and are not conditions that must be met in order for
5 a court to take action. Id. (citation omitted).

6 Based on Plaintiff’s failure to comply with or otherwise respond to the Court’s order, as a
7 result, there is no pleading on file which sets forth any claims upon which relief may be granted, and
8 the Court is left with no alternative but to dismiss the action for failure to state a cognizable claim for
9 relief. Id. Accordingly, it is **HEREBY RECOMMENDED** that this action be **DISMISSED**, with
10 prejudice, for failure to state a cognizable claim for relief.

11 This Findings and Recommendation will be submitted to the United States District Judge
12 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **thirty (30) days**
13 after being served with this Findings and Recommendation, Plaintiff may file written objections with
14 the Court. The document should be captioned “Objections to Magistrate Judge’s Findings and
15 Recommendation.” Plaintiff is advised that failure to file objections within the specified time may
16 result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
17 (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

18
19 IT IS SO ORDERED.

20 Dated: August 28, 2015


21 UNITED STATES MAGISTRATE JUDGE