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8	UNITED STATES DISTRICT COURT	
9	EASTERN DISTRICT OF CALIFORNIA	
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11	JUAN MONTENEGRO,) Case No.: 1:17-cv-00422-AWI-SAB (PC)
12	Plaintiff,)) \ FINDINGS AND RECOMMENDATIONS
13	v.) RECOMMENDING DISMISSAL OF ACTION) FOR FAILURE TO COMPLY WITH A COURT
14	DR. SCHRFFENBERG, et.al.,) ORDER AND FAILURE TO STATE A) COGNIZABLE CLAIM FOR RELIEF
15	Defendants.) [ECF Nos. 9, 10]
16) [Let 1(05.), 10] _)
17	Plaintiff Juan Montenegro is appearing pro se and in forma pauperis in this civil rights action	
18	pursuant to 42 U.S.C. § 1983.	
19	On June 14, 2017, the Court dismissed Plaintiff's first amended complaint and granted Plaintiff	
20	thirty days to file a second amended complaint, if he so desired. Plaintiff was warned that if he failed	
21	to comply, this action would be dismissed for failure to state a claim. More than thirty days have	
22	passed, and Plaintiff has not complied with or otherwise responded to the order.	
23	The Court has the inherent power to control its docket and may, in the exercise of that power,	
24	impose sanctions where appropriate, including dismissal of the action. <u>Bautista v. Los Angeles Cnty.</u> ,	
25	216 F.3d 837, 841 (9th Cir. 2000). In determining whether to dismiss an action, the Court must weigh	
26	"(1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its	
27	docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases	
28	on their merits; and (5) the availability of less drastic sanctions." In re Phenylpropanolamine (PPA)	
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Prod. Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006) (internal quotations and citations omitted). These factors guide a court in deciding what to do, and are not conditions that must be met in order for a court to take action. Id. (citation omitted).

Based on Plaintiff's failure to comply with or otherwise respond to the Court's order, the Court is left with no alternative but to dismiss the action for failure to prosecute. <u>Id.</u> This action can proceed no further without Plaintiff's cooperation and compliance with the order at issue, and the action cannot simply remain idle on the Court's docket, unprosecuted. <u>Id.</u> Accordingly, it is HEREBY RECOMMENDED that the instant action be dismissed for failure to state a cognizable claim for relief.

This Findings and Recommendation will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(l). Within **twenty-one (21) days** after being served with this Findings and Recommendation, Plaintiff may file written objections with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendation." Plaintiff is advised that failure to file objections within the specified time may result in the waiver of rights on appeal. <u>Wilkerson v. Wheeler</u>, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing <u>Baxter v. Sullivan</u>, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: July 24, 2017

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UNITED STATES MAGISTRATE JUDGE