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8	UNITED STATES DISTRICT COURT	
9	EASTERN DISTRICT OF CALIFORNIA	
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11	JESUS PACHECO,) Case No.: 1:19-cv-00774-LJO-SAB (PC)
12	Plaintiff,)) \ FINDINGS AND RECOMMENDATIONS
13	v.) RECOMMENDING DISMISSAL OF THE ACTION FOR FAILURE TO STATE A
14	RALPH DIAZ, et al.,	 COGNIZABLE CLAIM FOR RELIEF AND FAILURE TO COMPLY WITH A COURT
15	Defendants.) ORDER
16) [ECF No. 9]
17) _)
18	Plaintiff Jesus Pacheco is appearing pro se and in forma pauperis in this civil rights action	
19	pursuant to 42 U.S.C. § 1983.	
20	On September 4, 2019, the Court screened Plaintiff's complaint, determined he failed to state a	
21	cognizable claim for relief, and granted Plaintiff the opportunity to amend the complaint within thirty	
22	days. Over thirty days have passed and Plaintiff has not filed an amended complaint or otherwise	
23	responded to the Court's order. Accordingly, dismissal of the action is appropriate. As a result, there	
24	is no pleading on file which sets forth any claims upon which relief may be granted.	
25	The Court has the inherent power to control its docket and may, in the exercise of that power,	
26	impose sanctions where appropriate, including dismissal of the action. Bautista v. Los Angeles Cnty.,	
27	216 F.3d 837, 841 (9th Cir. 2000). In determining whether to dismiss an action, the Court must weigh	
28	"(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." <u>In re Phenylpropanolamine (PPA) Prod. Liab.</u>
<u>Litig.</u>, 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. <u>Id.</u> (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 this action be DISMISSED, for failure to obey a court order, failure to prosecute, and 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 28 U.S.C. § 636(b)(l). Within **fourteen (14) 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)).

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IT IS SO ORDERED.

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Dated: October 10, 2019

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UNITED STATES MAGISTRATE JUDGE