



1 unserved defendants, must consent in order for jurisdiction to vest with the magistrate judge  
2 pursuant to 28 U.S.C. § 636(c)(1). Dismissal in this case was therefore improper because the  
3 defendants, who were never served, did not consent to the jurisdiction of the magistrate judge.  
4 The court will therefore recommend that this case be reopened and assigned to a United States  
5 District Judge.

6 However, the court will also recommend that this action be dismissed. The court initially  
7 dismissed this action because plaintiff failed to pay the filing fee or seek leave to proceed in  
8 forma pauperis. ECF No. 6. Plaintiff's Rule 60(b) motion does not address the court's order of  
9 dismissal, but instead complains generally about the "modern day lingering effects of slavery"  
10 and religious discrimination. *See* ECF No. 10. Because plaintiff has failed to pay the filing fee or  
11 seek leave to proceed in forma pauperis, this action must be dismissed.<sup>1</sup>

12 Accordingly, IT IS HEREBY ORDERED that the Clerk of the shall vacate the October  
13 26, 2017 order (ECF No. 6) and judgment (ECF No. 7) and reopen the case. IT IS FURTHER  
14 ORDERED that the Clerk of the Court shall randomly assign a United States District Judge to  
15 this action.

16 Further, IT IS HEREBY RECOMMENDED that this action be dismissed without  
17 prejudice.


18 These findings and recommendations are submitted to the United States District Judge  
19 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
20 after being served with these findings and recommendations, any party may file written  
21 objections with the court and serve a copy on all parties. Such a document should be captioned  
22 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the  
23 objections shall be served and filed within fourteen days after service of the objections. The  
24 parties are advised that failure to file objections within the specified time may waive the right to

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26 <sup>1</sup> Moreover, the court cannot take judicial notice of plaintiff's bald allegations of "Green  
27 Wall Corporate Malfeasance." *See* ECF No. 10 at 1. Judicial notice extends only to facts that  
28 are "not subject to reasonable dispute" because they are either (a) "generally known within the  
territorial jurisdiction of the trial court" or (b) "capable of accurate and ready determination by  
resort to sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b).

1 appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*  
2 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

3 Dated: October 15, 2018.

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5 EDMUND F. BRENNAN  
6 UNITED STATES MAGISTRATE JUDGE  
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