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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GREGORY S. FARR, SR.
Plaintiff,
v.
IN-SHAPE HEALTH CLUBS, LLC., et
al.
Defendants.

No. 2:17-cv-1871-JAM GGH

FINDINGS AND RECOMMENDATIONS

Plaintiff filed this Title VII civil rights and American With Disabilities Act action in Solano Superior Court on July 21, 2017, and defendants removed it to this court on September 8, 2017. ECF No. 1. On September 14, 2017 defendant In-Shape Health Clubs, LLC. filed a Motion to Dismiss and set it for hearing on October 19, 2017 before this court. ECF No. 6. Plaintiff failed to file either a timely Opposition or a Statement of Non-Opposition to the Motion as required under Eastern District of California 230(c). On October 10, 2017 the court issued an Order to Show Cause why the failure to file should not be viewed as a Statement of Non-Opposition and, therefore, the Motion to Dismiss be granted as unopposed and directed the plaintiff to respond to the Order with 14 days of the date the Order was issued. ECF No. 9. Plaintiff has filed neither a response to the Order to Show Cause nor a response to the Motion.

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In light of the foregoing IT IS HEREBY RECOMMENDED that:

1. Plaintiff’s Complaint be dismissed with prejudice for lack of prosecution or in the alternative for failure to obey a court order. Fed.R.Civ.Proc. 41(b); and
2. The Clerk of the Court should close this case.

This Recommendation is submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14) days after being served with these findings and recommendations, any party may file written objections with the court. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections within the specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir.1991).

Dated: October 31, 2017

/s/ Gregory G. Hollows
UNITED STATES MAGISTRATE JUDGE