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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LEONARD TOBIA,  
  
Plaintiff,  
  
v.  
  
DOLLAR TREE STORES, INC., a  
California Corporation dba Dollar Tree  
Store # 4760; KEVIN WAMPLER; and  
DOES 1-10,  
  
Defendants.

No. 2:18-cv-871-MCE-EFB PS

ORDER AND FINDINGS AND  
RECOMMENDATIONS

On July 17, 2019, the court granted plaintiff’s request to proceed *in forma pauperis* and directed the clerk to provide plaintiff with the forms required to effect service on defendants.<sup>1</sup> ECF No. 3. The court further directed plaintiff to provide the U.S. Marshal within fourteen days all information needed to effect service of process and to file a statement with the court without fourteen days thereafter that the documents were submitted. *Id.* Also on July 17, 2019, the court issued an order which, among other things, set a status (pretrial scheduling) conference for January 8, 2020, directed plaintiff to serve a copy of the order concurrently with service of process, and directed the parties to file status reports within fourteen days of the scheduling conference. ECF No. 5.

<sup>1</sup> This case, in which plaintiff is proceeding *in propria persona*, is before the undersigned pursuant to Eastern District of California Local Rule 302(c)(21). See 28 U.S.C. § 302(b)(1).

1 Plaintiff did not timely file a status report. He also did not timely file a statement that  
2 service documents were submitted to the Marshal, nor demonstrate that defendants had been  
3 properly served.<sup>2</sup> Accordingly, the scheduling conference was continued, and plaintiff was  
4 directed to show cause, by no later than February 12, 2020, why this action should not be  
5 dismissed for failure to timely effect service of process and/or failure to comply with court orders.  
6 ECF No. 6. The parties were also ordered to file, by no later than February 12, 2020, status  
7 reports setting forth the matters referenced in the court's July 17, 2019 order, including the status  
8 of service of process. *Id.* at 2. Plaintiff was cautioned that failure to comply with the order would  
9 result in a recommendation that this action be dismissed. *Id.*

10 The deadlines have passed, and plaintiff has not responded to the court's order to show  
11 cause. Accordingly, it is hereby ORDERED that the February 26, 2020 scheduling conference is  
12 vacated.

13 Further, it is RECOMMENDED that this action be dismissed for failure to prosecute and  
14 failure to comply with court orders. *See* Fed. R. Civ. P. 41(b); E.D. Cal. L.R. 110.

15 These findings and recommendations are submitted to the United States District Judge  
16 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
17 after being served with these findings and recommendations, any party may file written  
18 objections with the court and serve a copy on all parties. Such a document should be captioned  
19 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections  
20 within the specified time may waive the right to appeal the District Court's order. *Turner v.*  
21 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

22 Dated: February 24, 2020.

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24 EDMUND F. BRENNAN  
25 UNITED STATES MAGISTRATE JUDGE

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<sup>2</sup> To date, defendants have not appeared in this action.