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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANDREW R. ORTIZ; RENE ORTIZ, AS
TRUSTEE FOR ANDREW R. ORTIZ,

Plaintiffs,

v.

GATESTONE & CO. INTERNATIONAL,
INC.,

Defendant.

No. 2:18-cv-2479-JAM-EFB PS

FINDINGS AND RECOMMENDATIONS

On October 4, 2019, the court granted defendant’s motion to dismiss plaintiffs’ complaint for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). The court explained the complaint’s deficiencies and granted plaintiffs thirty days in which to file an amended complaint. ECF Nos. 15 & 17. In response, plaintiffs filed a status report stating that they have been unsuccessfully attempting to settle this case and that they “continue to Reserve All [their] Rights.” ECF No. 20. Plaintiffs did not, however, file an amended complaint. Given their pro se status, plaintiffs were granted an additional 21 days, or until February 28, 2020, to file an amended complaint. ECF No. 22. Plaintiffs were admonished that this was their final opportunity to file an amended complaint, and that failure to timely do so would result in a recommendation that this action be dismissed. *Id.*

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1 Shortly thereafter, plaintiff Rene Ortiz filed a document styled as an “Order of Stay of
2 Proceedings.” ECF No. 26. Therein, she purports to “Order this Stay of Proceedings Without
3 Prejudice, Without Recourse,” and that plaintiffs “continue to Reserve All [their] Rights.” *Id.*
4 Plaintiffs, however, did not file a formal motion requesting a stay of this action, nor have they
5 provided any basis for granting a stay.¹ Plaintiffs also failed to file an amended complaint despite
6 being admonished that failure to do so by February 28, 2020 would result in a recommendation
7 that this action be dismissed.

8 Accordingly, it is hereby RECOMMENDED that this action be dismissed for failure to
9 prosecute and comply with court orders, and that the Clerk be directed to close the case. *See Fed.*
10 *R. Civ. P. 41(b); E.D. Cal. L.R. 110.*

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

18 DATED: April 16, 2020.

19 
20 EDMUND F. BRENNAN
21 UNITED STATES MAGISTRATE JUDGE
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27 _____
28 ¹ To the extent Rene Ortiz’s filing was intended to request a stay, that request must be
denied. The filing fails to provide any explanation for why a stay of this action is needed.