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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SHANNON O. MURPHY ESQ. SR, dba
SHEETMETAL & ASSOCIATES.,

Plaintiff,

v.

AIG CLAIMS, INC.

Defendant.

No. 2:20-cv-00301 TLN AC (PS)

FINDINGS AND RECOMMENDATIONS

Plaintiff is proceeding in this action pro se. The action was accordingly referred to the undersigned for pretrial matters by E.D. Cal. R. (“Local Rule”) 302(c)(21). On March 2, 2020, the court granted plaintiff’s in forma pauperis (“IFP”) application but rejected the complaint, granting plaintiff 30 days to file an amended complaint. ECF No. 3. Plaintiff was cautioned that failure to do so could lead to a recommendation that the action be dismissed. Plaintiff did not file an amended complaint within the time limit. On April 6, 2020, the court issued an order to show cause within 14 days why this case should not be dismissed for failure to prosecute. ECF No. 4. Plaintiff responded to the order to show cause. ECF No. 5.

Plaintiff’s response to the order to show cause is largely incoherent, and it does not offer any clear rationale for his failure to timely file an amended complaint. Id. Accordingly, the court finds no good cause for plaintiff’s failure to file an amended complaint. Plaintiff could have

1 discharged the order to show cause by actually filing an amended complaint, see ECF No.4, but
2 he did not do so. Indeed, it is apparent that plaintiff is unwilling or unable to prosecute this case.

3 Therefore, IT IS HEREBY RECOMMENDED that this action be dismissed, without
4 prejudice, for lack of prosecution and for failure to comply with the court's order. See Fed. R.
5 Civ. P. 41(b); Local Rule 110.

6 These findings and recommendations are submitted to the United States District Judge
7 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one
8 (21) days after being served with these findings and recommendations, plaintiff may file written
9 objections with the court. Such document should be captioned "Objections to Magistrate Judge's
10 Findings and Recommendations." Local Rule 304(d). Plaintiff is advised that failure to file
11 objections within the specified time may waive the right to appeal the District Court's order.
12 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

13 DATED: April 21, 2020

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15 ALLISON CLAIRE
16 UNITED STATES MAGISTRATE JUDGE
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