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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER KERSHNER,
Plaintiff,
v.
JOSHUA EAGAN, et al.,
Defendants.

No. 2:20-cv-1047 DAD DB PS

ORDER AND
FINDINGS AND RECOMMENDATIONS

Plaintiff Christopher Kershner is proceeding in this action pro se. This matter was referred to the undersigned in accordance with Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1). On July 25, 2022, the court issued an order setting this matter for a Status (Pretrial Scheduling) Conference before the undersigned on August 26, 2022. (ECF No. 29.) Pursuant to that order, plaintiff was to file a status report on or before August 12, 2022. Plaintiff, however, failed to file the required status report.

Accordingly, on August 19, 2022, the court issued an order to show cause, ordering plaintiff to show cause in writing within fourteen days as to why this action should not be dismissed for lack of prosecution. Plaintiff was warned that the failure to timely comply with that order could result in a recommendation that this case be dismissed. (Id. at 2.) Nonetheless, the time provided plaintiff has expired and plaintiff has not responded to the August 19, 2022 order.

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1 counsels against dismissal. However, plaintiff's failure to prosecute the action in any way makes
2 disposition on the merits an impossibility. The undersigned will therefore recommend that this
3 action be dismissed due to plaintiff's failure to prosecute as well as plaintiff's failure to comply
4 with the court's orders. See Fed. R. Civ. P. 41(b).

5 Accordingly, IT IS HEREBY ORDERED that:

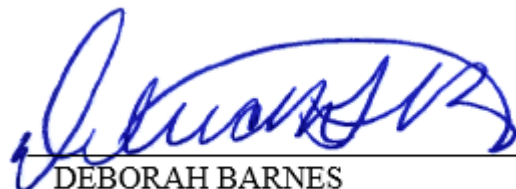
- 6 1. Defendants' July 12, 2022 motion to compel (ECF No. 28) is denied without prejudice
7 to renewal¹; and
- 8 2. The September 16, 2022 hearing of defendants' motion is vacated.

9 Also, IT IS HEREBY RECOMMENDED that:

- 10 1. Plaintiff's May 7, 2022 amended complaint (ECF No. 4) be dismissed without
11 prejudice; and
- 12 2. This action be closed.

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

21 Dated: September 6, 2022

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25 DEBORAH BARNES
26 UNITED STATES MAGISTRATE JUDGE

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28 DB/orders/orders.pro se/kershner1047.dlop.f&rs

27 _____
28 ¹ In the event these findings and recommendations are not adopted in full defendants may re-
notice their motion to compel for hearing before the undersigned.