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1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 LLOYD THOMAS BERNARD, II; No. 2:21-cv-00948 TLN DB PS STEPHANIE CELESTE TEJADA-12 OTERO. 13 Plaintiffs, ORDER AND FINDINGS AND RECOMMENDATIONS 14 v. 15 COUNTY OF SAN JOAQUIN, et al., 16 Defendants. 17 18 Plaintiffs Lloyd Thomas Bernard and Stephanie Celeste Tejada-Otero are proceeding in 19 this action pro se. This matter was referred to the undersigned in accordance with Local Rule 20 302(c)(21) and 28 U.S.C. § 636(b)(1). On December 23, 2022, the undersigned dismissed 21 plaintiffs' complaint and granted plaintiffs leave to amend and to properly serve the defendants. 22 (ECF No. 22.) On January 19, 2023, plaintiffs filed a motion seeking a 45-day extension of time 23 to file an amended complaint. (ECF No. 23.) On March 8, 2023, the undersigned granted 24 plaintiffs' request and ordered plaintiffs to file an amended complaint within 28 days. (ECF No. 25 25.) The twenty-eight-day period has expired, and plaintiffs have not responded to the court's 26 order in any manner. 27

Moreover, on April 18, 2023, defendants filed a motion to dismiss for failure to prosecute and noticed the motion for hearing before the undersigned on May 26, 2023. (ECF No. 27.)

1	Pursuant to Local Rule 230(c), plaintiffs were to file an opposition, if any, within 14 days after
2	being served with the motion. The 14-day period has passed, and plaintiffs have not filed an
3	opposition. In this regard, plaintiffs have failed to prosecute this action.
4	Accordingly, IT IS HEREBY ORDERED that:
5	1. Defendants' April 18, 2023 motion to dismiss (ECF No. 27) is denied without
6	prejudice to renewal as having been rendered moot ¹ ; and
7	2. The May 26, 2023 hearing of defendants' motion is vacated.
8	Also, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice.
9	See Local Rule 110; Fed. R. Civ. P. 41(b).
10	These findings and recommendations are submitted to the United States District Judge
11	assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days
12	after being served with these findings and recommendations, any party may file written
13	objections with the court and serve a copy on all parties. Such a document should be captioned
14	"Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections
15	shall be served and filed within fourteen days after service of the objections. The parties are
16	advised that failure to file objections within the specified time may waive the right to appeal the
17	District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).
18	DATED: May 22, 2023 /s/ DEBORAH BARNES LINHTED STATES MACKET ATE HIDGE
19	UNITED STATES MAGISTRATE JUDGE
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28	In the event these findings and recommendations are not adopted in full defendants may renotice the motion to dismiss for hearing before the undersigned.