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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

5 WORLD MARKET TICKETS and
HUMANITY CONCERT,

Plaintiffs,

v.

GAVIN NEWSOME¹, et al.,

Defendants.

No. 2:23-cv-02541-TLN-SCR

FINDINGS AND RECOMMENDATIONS

Plaintiff is proceeding pro se in this matter². The action was accordingly referred to the undersigned for pretrial matters by E.D. Cal. R. (“Local Rule”) 302(c)(21). The complaint in this matter was filed November 3, 2023. On April 23, 2024, this court issued an Order to Show Cause why this action should not be dismissed for failure to prosecute as it appeared Plaintiffs had failed to effect service in the time required under Federal Rule of Civil Procedure 4(m). ECF No. 6. The Order to Show Cause directed Plaintiff to respond within 14 days, and advised that failure to timely comply may result in dismissal. ECF No. 6. Plaintiff did not respond.

¹ This is the spelling in Plaintiff’s papers.

² The complaint was signed by Adesijuola Ogunjobi and filed pro se, even though the named Plaintiffs are 5 World Market Tickets and Humanity Concert. See ECF No. 1 at 13-14. Plaintiff was advised in the Order to Show Cause that he could not represent those entities pro se. ECF No. 6.

1 Plaintiff did not respond and has made no filing in this matter since a January 12, 2024,
2 notice stating that counsel had been retained for Plaintiffs. ECF No. 5. No notice of appearance
3 has been filed by counsel. Further, the Order to Show Cause was served on plaintiff's address of
4 record and returned by the postal service as undeliverable. It appears that plaintiff has failed to
5 comply with the court's Local Rules, which require that a party appearing in propria persona
6 inform the court of any address change within sixty-three days. Local Rule 183(b). More than
7 sixty-three days have passed since the court order was returned by the postal service and plaintiff
8 has failed to notify the Court of a current address.

9 In recommending this action be dismissed for failure to prosecute, the court has
10 considered "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to
11 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
12 disposition of cases on their merits; and (5) the availability of less drastic alternatives." *Ferdik v.*
13 *Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (citation omitted). Here, consideration of the
14 elements favors dismissal without prejudice because the case simply cannot move forward
15 without plaintiff's participation. Less drastic alternatives are not available. *See Carey v. King*,
16 856 F.2d 1439, 1441 (9th Cir. 1988) ("we can imagine no less drastic sanction that was available"
17 other than dismissal without prejudice where the litigant had failed to update his address and any
18 further order to show cause or order imposing sanctions "would only find itself taking a round
19 trip tour through the United States mail."). The Court finds the factors weigh in favor of
20 dismissal. Therefore, **IT IS HEREBY RECOMMENDED** that this action be dismissed, without
21 prejudice, for lack of prosecution and for failure to comply with the court's order. *See Fed. R.*
22 *Civ. P. 41(b); Local Rule 110.*

23 These findings and recommendations are submitted to the United States District Judge
24 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one
25 (21) days after being served with these findings and recommendations, plaintiff may file written
26 objections with the court. Such document should be captioned "Objections to Magistrate Judge's
27 Findings and Recommendations." Local Rule 304(d). Plaintiff is advised that failure to file

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1 objections within the specified time may waive the right to appeal the District Court's order.

2 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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4 DATED: August 28, 2024

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SEAN C. RIORDAN
UNITED STATES MAGISTRATE JUDGE

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