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4 IN THE UNITED STATES DISTRICT COURT
5 FOR THE NORTHERN DISTRICT OF CALIFORNIA
6

7 BRODERICK WARFIELD,

No. 16-cv-5172 CRB

8 Plaintiff,

**ORDER ADOPTING REPORT AND
RECOMMENDATION IN PART AND
DISMISSING CASE WITH PREJUDICE**

9 v.


10 BEN LEWIS,

11 Defendant.
12 _____/

13 The Court has reviewed Magistrate Judge Westmore's Report and Recommendation
14 (dkt. 7), and notes that more than fourteen days have passed and no opposition has been filed.
15 The Court finds the Report correct, well-reasoned, and thorough, and ADOPTS it in every
16 respect, except that the Court finds that dismissal should be with prejudice. A dismissal
17 under Federal Rule of Civil Procedure 41(b) "operates as an adjudication on the merits" –
18 and therefore results in dismissal with prejudice unless otherwise stated. See Semtek Intern.
19 Inc. v. Lockheed Martin Corp., 531 U.S. 497, 505 (2001). Plaintiff filed his complaint and
20 initial application to proceed in forma pauperis on September 8, 2016 but has taken no action
21 since despite repeated admonitions to do so. See Order on IFP Mot. (dkt. 5); OSC (dkt. 6).
22 Accordingly, the Court DISMISSES the case WITH PREJUDICE.

23 **IT IS SO ORDERED.**

24 Dated: January 6, 2017

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27 CHARLES R. BREYER
28 UNITED STATES DISTRICT JUDGE