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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

JAY JIA WEN CHOI,
Plaintiff,

v.

LOCKHEED MARTIN SPACE SYSTEMS
COMPANY, et al.,
Defendants.

Case No. [16-cv-04337-BLF](#)

ORDER DISMISSING CASE

On November 17, 2016, this Court declined to adopt the Report and Recommendation of Magistrate Judge Cousins, recommending that the case be dismissed for failure to prosecute, violation of several court orders, and failure to appear at a hearing. *See* ECF 21. At the time, Plaintiff’s failings amounted to his failure to consent to or deny the jurisdiction of a U.S. magistrate judge, his failure to appear at the September 21, 2016 hearing on the motion to dismiss, and his failure to collaborate on a joint case management statement with Defendant’s counsel, all in violation of valid court orders. *Id.* at 2. The Court explained that Plaintiff’s failure to appear for the motion to dismiss hearing might have been due to excusable confusion, and that Plaintiff’s other failings did not demonstrate that he had abandoned his claims. *Id.*

At the same time, the Court issued an order to show cause, ordering Plaintiff to advise the Court in writing of his intent to pursue this case in federal court and consent to or deny the jurisdiction of a magistrate judge on or before November 28, 2016. ECF 22. The Court also set a case management conference for February 23, 2017. *Id.* In the order, the Court advised Plaintiff that “[f]ailure to comply with any portion of this order shall result in dismissal of the case.” *Id.*


Despite this order, Plaintiff has continued the pattern of ignoring court orders. To date, the Court has not received notice, in writing, of Plaintiff’s intent to pursue this case nor has Plaintiff

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consented to or denied the jurisdiction of a magistrate judge. Accordingly, this action is
DISMISSED WITHOUT PREJUDICE. *See* Fed. R. Civ. P. 41(b); *Edwards v. Marin Park, Inc.*,
356 F.3d 1058, 1065 (9th Cir. 2004) (“The failure of the plaintiff eventually to respond to the
court’s ultimatum . . . is properly met with the sanction of a Rule 41(b) dismissal.”).

IT IS SO ORDERED.

Dated: December 2, 2016


BETH LABSON FREEMAN
United States District Judge