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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 THOMAS DENTON,

10 Plaintiff,

11 v.

12 FRED FIGUEROGA, et al.,

13 Defendants.

CASE NO. C10-1966 RJB

ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DISMISSING CASE WITH
PREJUDICE

14 This matter comes before the court on the Report and Recommendation of the Magistrate
15 Judge. Dkt. 67. The court has considered the relevant record, including plaintiff's objections
16 (Dkt. 68), defendants' response (Dkt. 69), and the remainder of the file herein.

17 On December 11, 2012, U.S. Magistrate Judge J. Richard Creatura issued a Report and
18 Recommendation, recommending that this case be dismissed for plaintiff's failure to comply
19 with court orders, failure to provide discovery, and failure to prosecute. Dkt. 67.

20 On December 18, 2012, plaintiff filed a response to the Report and Recommendation,
21 requesting that the court dismiss this case without prejudice, contending that his former attorney
22 "took all my exhibits and never returned them to me." Dkt. 68. Plaintiff maintains that he had
23 no way to respond to questions from defendants. *Id.*

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WITH PREJUDICE- 1

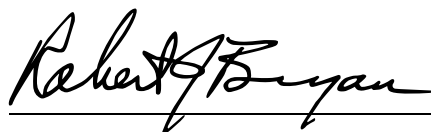
1 On January 8, 2013, defendants filed a response, contending that the court permitted
2 plaintiff's counsel to withdraw, and ordered plaintiff to answer outstanding discovery by July 6,
3 2012; that plaintiff failed to respond to the discovery and failed to respond to defendants' motion
4 to dismiss and for summary judgment; that some of the discovery defendants requested did not
5 require reference to documents that plaintiff's counsel allegedly failed to return to plaintiff; and
6 that plaintiff failed to request any extension of time to respond to discovery or to respond to the
7 motion to dismiss and for summary judgment. Dkt. 69. Defendants request that they are entitled
8 to a speedy resolution of this case. *Id.*

9 Plaintiff apparently concurs that the case should be dismissed. He believes that the
10 dismissal should be without prejudice. However, the reasons plaintiff has advanced for failing to
11 comply with his discovery responsibilities, for failing to respond to defendants' motion to
12 dismiss and for summary judgment, and for failing to participate in this case after his counsel
13 was permitted to withdraw, are not sufficient. Dismissal without prejudice would not be fair to
14 defendants, who are entitled to resolution of this case that was filed two years ago. The court
15 should adopt the Report and Recommendation and dismiss this case with prejudice.

16 Accordingly, it is hereby **ORDERED** that the Report and Recommendation (Dkt. 67) is
17 **ADOPTED**. This case is **DISMISSED WITH PREJUDICE**. All pending motions are
18 **STRICKEN** as moot.

19 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
20 to any party appearing *pro se* at said party's last known address.

21 Dated this 18th day of January, 2013.

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24 ROBERT J. BRYAN
United States District Judge