

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Atlas Lifting & Rigging, LLC v. Berner

Atlas Lifting · No. 2:23-cv-0808 KJM AC PS · Decided December 17, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations after the plaintiff filed no objections. The court dismissed the action against the remaining defendant, Trevor Berner, without prejudice for lack of prosecution under Federal Rule of Civil Procedure 41(b) and Local Rule 110, and closed the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 17, 2025
DOCKET	2:23-cv-0808 KJM AC PS
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's findings and recommendations after the plaintiff failed to file objections and dismissed the action against the sole remaining defendant without prejudice for lack of prosecution.
STANDARD OF REVIEW	The district court presumes that the magistrate judge's findings of fact are correct and reviews the magistrate judge's conclusions of law de novo.
PRECEDENTIAL VALUE	Unknown
PARTIES	Atlas Lifting & Rigging, LLC v. Trevor Berner, Synergy Marketing & Sales, Inc.

TOPICS

- civil procedure
- sanctions

PRACTICE AREAS

- Civil procedure
- Federal litigation

QUESTIONS PRESENTED

1. Whether the magistrate judge's findings and recommendations should be adopted when plaintiff filed no objections.
2. Whether service at the party's record address was effective despite the apparent return of the plaintiff's copy.
3. Whether the action should be dismissed without prejudice for lack of prosecution.

HOLDINGS

1. Service of court documents at the record address of a party is fully effective when the party has failed to keep the court apprised of a current address.
2. The district court may adopt the magistrate judge's findings and recommendations after independently reviewing the conclusions of law de novo and presuming the factual findings correct.
3. An action may be dismissed without prejudice for lack of prosecution under Federal Rule of Civil Procedure 41(b) and the applicable local rule.

KEY QUOTATIONS

“It is the plaintiff’s responsibility to keep the court apprised of his current address at all times.” (at 1)

“Under to Local Rule 182(f), service of documents at the record address of the party is fully effective.” (at 1)

FACTUAL BACKGROUND

The magistrate judge filed findings and recommendations on October 16, 2025, and they were served on plaintiff. Plaintiff did not file objections within the prescribed twenty-one-day period. Although plaintiff's copy appeared to have been returned, the court found that plaintiff had been properly served at the record address and had not kept the court apprised of a current address.

PROCEDURAL HISTORY

On October 16, 2025, the magistrate judge issued findings and recommendations and served them on plaintiff with notice that objections were due within twenty-one days. Plaintiff filed no objections. The district court adopted the findings and recommendations in full and dismissed the action as to the sole remaining defendant, Trevor Berner, without prejudice for lack of prosecution, closing the case.

DISPOSITION

dismissed

CASES CITED

- Orand v. United States, 602 F.2d 207, 208 (9th Cir. 1979)
- Robbins v. Carey, 481 F.3d 1143, 1147 (9th Cir. 2007)

OPINION

Berner

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 ATLAS LIFTING & RIGGING, LLC, No. 2:23-cv-0808 KJM AC PS

12 Plaintiff, 13 v. ORDER

14 TREVOR BERNER and SYNERGY

MARKETING & SALES, INC.,

15 Defendants. 16

17 On October 16, 2025, the magistrate judge filed findings and recommendations, which 18 were served on plaintiff and which contained notice to plaintiff that any objections to the findings 19 and recommendations were to be filed within twenty-one days. ECF No. 29. Plaintiff has not 20 filed objections to the findings and recommendations. 21 Although it appears from the file that plaintiff's copy of the findings and 22 recommendations was returned, plaintiff was properly served. It is the plaintiff's responsibility to 23 keep the court apprised of his current address at all times. Under to Local Rule 182(f), service of 24 documents at the record address of the party is fully effective. 25 The court presumes that any findings of fact are correct. See *Orand v. United States*, 26 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de 27 novo. See *Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) (“[D]eterminations of law by 28 the magistrate judge are reviewed de novo by both the district court and [the appellate] court]). Having reviewed the file, the court finds the findings and recommendations to be 2 || supported by the record and by the proper analysis. 3 Accordingly, IT IS HEREBY ORDERED that: 4 1. The findings and recommendations filed October 16, 2025, are adopted in full; and 5 2. This action is dismissed as to the sole remaining defendant, Trevor Berner, without 6 || prejudice, for lack of prosecution. See Fed. R. Civ. P. 41(b); Local Rule 110, and this case is 7 || closed. 8 | DATED: December 17, 2025. 10 ane □

STATES DISTRICT JUDGE

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