

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Lloyd Thomas Bernhard, II v. County of San Joaquin, et al.

No. 2:25-cv-01465-DC-SCR, United States District Court for the Eastern District of California (October 2,
2025)

SUMMARY

A United States magistrate judge recommends dismissing Lloyd Thomas Bernhard, II's pro se civil action against the County of San Joaquin and other defendants without prejudice for failure to effect service within the time required by Federal Rule of Civil Procedure 4(m). The recommendation also directs the Clerk to enter judgment and close the case, subject to the parties' right to file objections.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 LLOYD THOMAS BERNHARD, II, No. 2:25-cv-01465-DC-SCR 12
Plaintiff, 13 v. FINDINGS AND RECOMMENDATIONS 14 COUNTY OF SAN JOAQUIN, et
al., 15 Defendants. 16 17 Plaintiff is proceeding pro se in this matter, which is referred to the
undersigned pursuant 18 to Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1).

The record reflects that more than 90 days 19 have passed since the filing of this action and no
return/proof of service is on file, nor has any 20 Defendant appeared. Additionally, Plaintiff did
not respond to the Court's Order to Show Cause 21 (OSC) issued on September 3, 2025.

Accordingly, the Court recommends that this action be 22 dismissed for failure to effect service
pursuant to Federal Rule of Civil Procedure 4(m). 23 I. Time Limit for Service 24 Plaintiff filed
this action on May 27, 2025. ECF No. 1. Summons issued on the same 25 day. ECF No. 2. Federal
Rule of Civil Procedure 4(l) states that "proof of service must be made 26 to the court." Federal
Rule of Civil Procedure 4(m) provides in relevant part: "If a defendant is 27 not served within 90
days after the complaint is filed, the court--on motion or on its own after 28 notice to the plaintiff--
must dismiss the action without prejudice against that defendant or order 1 | that service be made
within a specified time.

But if the plaintiff shows good cause for the failure, 2 | the court must extend the time for service
for an appropriate period." On July 28, 2025, Plaintiff 3 || filed a motion for a 90-day extension of
time to complete service. ECF No. 4.

The Court found 4 | the motion did not demonstrate good cause and denied the motion. ECF No.
5. The 90 days in 5 || which to effect service expired on August 25, 2025. The Court then issued an

OSC on September 6 || 3, 2025, directing Plaintiff to show cause within 14 days as to why the action should not be 7 || dismissed. Plaintiff did not respond to the OSC, and now more than four months have passed 8 | since the filing of the action and Plaintiff has not filed returns/proof of service.

9 Therefore, IT IS HEREBY RECOMMENDED that: 10 1. This action be dismissed, without prejudice, for failure to effect service pursuant to 11 Federal Rule of Civil Procedure 4(m); and 12 2. The Clerk be directed to enter Judgment and close this case. 13 These findings and recommendations are submitted to the United States District Judge 14 | assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1).

Within fourteen (14) 15 | days after being served with these findings and recommendations, either party may file written 16 | objections with the court. Such document should be captioned “Objections to Magistrate Judge’s 17 | Findings and Recommendations.” Local Rule 304(d).

The parties are advised that failure to file 18 | objections within the specified time may waive the right to appeal the District Court’s order. 19 | Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991). 20 | DATED: October 1, 2025 21 22 Kink 23 cnrrED STATES MAGESTRATE JUDGE 24 25 26 27 28