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 FPD    Appointed    CJA    Pro Per    Retained

**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA**

Tucker Durnford, individually and on behalf of all others  
 similarly situated,  
  
 PLAINTIFF(S),  
 v.  
 Musclepharm Corp.,  
  
 DEFENDANT(S).

CASE NUMBER:  
  
 3:15-cv-00413-HSG  
  
**NOTICE OF APPEAL**

NOTICE IS HEREBY GIVEN that Tucker Durnford hereby appeals to  
*Name of Appellant*  
 the United States Court of Appeals for the Ninth Circuit from:

**Criminal Matter**

- Conviction only [F.R.Cr.P. 32(j)(1)(A)]
- Conviction and Sentence
- Sentence Only (18 U.S.C. 3742)
- Pursuant to F.R.Cr.P. 32(j)(2)
- Interlocutory Appeals
- Sentence imposed:

Bail status:

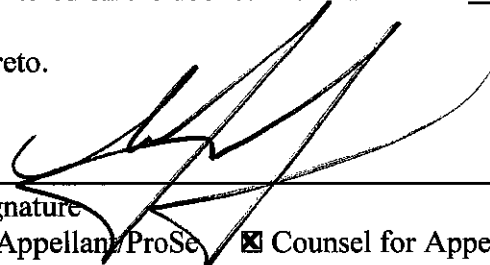
**Civil Matter**

- Order (specify):
- Judgment (specify):  
 in favor of defendant Musclepharm Corp.
- Other (specify):

Imposed or Filed on Feb. 10, 2016. Entered on the docket in this action on Feb. 10, 2016.

A copy of said judgment or order is attached hereto.

3/7/2016  
 Date

  
 Signature  
 Appellant/ProSe    Counsel for Appellant    Deputy Clerk

**Note:** The Notice of Appeal shall contain the names of all parties to the judgment or order and the names and addresses of the attorneys for each party. Also, if not electronically filed in a criminal case, the Clerk shall be furnished a sufficient number of copies of the Notice of Appeal to permit prompt compliance with the service requirements of FRAP 3(d).

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United States District Court  
Northern District of California

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

TUCKER DURNFORD,  
Plaintiff,  
v.  
MUSCLEPHARM CORP.,  
Defendant.

Case No. 15-cv-00413-HSG


**JUDGMENT**

Re: Dkt. No. 56

Judgment is hereby entered consistent with the Court's Order of Dismissal,  
This document constitutes a judgment and a separate document for purposes of Federal  
Rule of Civil Procedure 58(a).

Dated at Oakland, California, this 10th day of February, 2016.

Susan Y. Soong  
Clerk of Court

By:   
Nikki D. Riley  
Deputy Clerk to the Honorable  
HAYWOOD S. GILLIAM, JR.

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

TUCKER DURNFORD,  
Plaintiff,

v.

MUSCLEPHARM CORP.,  
Defendant.

Case No. 15-cv-00413-HSG

**ORDER OF DISMISSAL**

United States District Court  
Northern District of California

On December 18, 2015, the Court granted Defendant MusclePharm Corp.'s motion to dismiss Plaintiff Tucker Durnford's first amended class action complaint. Dkt. No. 52. The Court granted Plaintiff leave to file an amended complaint within 21 days. *Id.* The deadline for Plaintiff to file his second amended complaint passed, and on January 20, 2016, the Court issued an order to show cause why the case should not be dismissed for failure to prosecute. Dkt. No. 53. In his January 22, 2016, response to the Court's order to show cause, Plaintiff indicated that he will not amend his complaint and intends to appeal the Court's dismissal of his first amended complaint. Dkt. No. 53.


When a plaintiff has declined amendment of his complaint in favor of appealing the dismissal, the court should dismiss the action with prejudice under Federal Rule of Civil Procedure 12(b)(6). *See Edwards v. Marin Park, Inc.*, 356 F.3d 1058 (9th Cir. 2004).

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Accordingly, this action is DISMISSED with prejudice under Rule 12(b)(6). The Clerk shall enter judgment in favor of Defendant. Both parties shall bear their own costs of suit.

**IT IS SO ORDERED.**

Dated: 2/10/2016

  
HAYWOOD S. GILLIAM, JR.  
United States District Judge

United States District Court  
Northern District of California