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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

TRAVIS IRVIN MIDDLETON,	)	Case No. CV 07-8089-SVW(AGR)
	)	
Plaintiff,	)	ORDER ACCEPTING IN PART AMENDED
	)	FINDINGS AND RECOMMENDATIONS OF
v.	)	UNITED STATES MAGISTRATE JUDGE;
	)	AND JUDGMENT
RAUL VASQUEZ, et al.,	)	
	)	
Defendants.	)	
	)	

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Complaint, the records on file, and the Amended Report and Recommendation of the United States Magistrate Judge ("Report"). Further, the Court has reviewed de novo the portions of the Report to which Plaintiff has objected. The Court ADOPTS the Report, accepting the findings and recommendations of the Magistrate Judge, except as follows:

**A. Second Cause of Action - Conspiracy**

Because it is unclear from the record that the issue of conspiracy was actually litigated and necessarily decided in state court, the Court cannot conclude that the second cause of action is collaterally estopped. Nonetheless, the Court agrees with the Magistrate that the

1 second cause of action should be dismissed without prejudice.<sup>1</sup>

2 **B. Third Cause of Action - Invasion of Privacy**

3 Because it is unclear whether the issue of invasion of privacy was  
4 actually litigated and necessarily decided in state court, the Court  
5 cannot agree that this claim is collaterally estopped. Nonetheless,  
6 the Court agrees with the Report that the third cause of action should  
7 be dismissed without prejudice.

8 To conclude, for the reasons set forth herein and in the  
9 Magistrate's Report, the Court hereby GRANTS Defendants' motions to  
10 dismiss the Second Amended Complaint. Accordingly, it is ORDERED and  
11 ADJUDGED that: (1) the fourth cause of action is dismissed with  
12 prejudice as to all Defendants; (2) all other causes of action are  
13 dismissed with prejudice as to Alliant Insurance and National Union;  
14 and (3) the first, second, and third causes of action against the  
15 remaining defendants are dismissed without prejudice.

16  
17 IT IS SO ORDERED.

18  
19  
20 DATED: July 31, 2013



21 \_\_\_\_\_  
STEPHEN V. WILSON  
22 UNITED STATES DISTRICT JUDGE  
23

24 \_\_\_\_\_  
25 <sup>1</sup> "Under California law, which is applicable here, the following requirements must  
26 be met for collateral estoppel to apply: First, the issue sought to be precluded  
27 from relitigation must be identical to that decided in a former proceeding. Second,  
28 this issue must have been actually litigated in the former proceeding. Third, it  
must have been necessarily decided in the former proceeding. Fourth, the decision  
in the former proceeding must be final and on the merits. Finally, the party  
against whom preclusion is sought must be the same as, or in privity with, the  
party to the former proceeding." Cooper v. Ramos, 704 F.3d 772, 784 (9th Cir. 2012)  
(internal citations omitted).