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

SCOTT JOHNSTON,

No. CIV S-09-1353-FCD-CMK

Plaintiff,

vs.

ORDER

CITY OF RED BLUFF, et al.,

Defendants.

_____ /

Plaintiff brings this civil action under the Age Discrimination in Employment Act (“ADEA”), 29 U.S.C. §§ 621-634, against the City of Red Bluff and various of its employees, as well as Art Frolli, a union representative for Operating Engineers Local No. 3. The matter was referred to a United States Magistrate Judge pursuant to Eastern District of California local rules.

On November 23, 2009, the Magistrate Judge filed findings and recommendations herein which were served on the parties and which contained notice that the parties may file objections within a specified time. Timely objections to the findings and recommendations have been filed.

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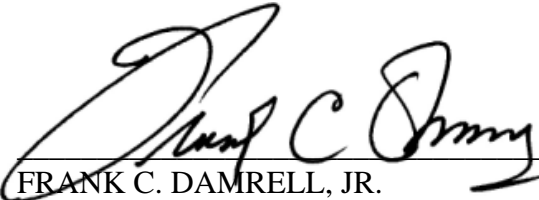
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1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule
2 304, this court has conducted a de novo review of this case. Having carefully reviewed the
3 entire file, the court finds the findings and recommendations to be supported by the record and
4 by proper analysis.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. The findings and recommendations filed November 23, 2009, are adopted
7 in full;
- 8 2. Defendant Frolli's motion to dismiss (Doc. 15) is granted;
- 9 3. Defendant Frolli is dismissed from the action with prejudice; and
- 10 4. Plaintiff's complaint is dismissed with leave to amend within 30 days of
11 the date of this order.

12 DATED: February 17, 2010.

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15 FRANK C. DAMRELL, JR.
16 UNITED STATES DISTRICT JUDGE
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