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Accordingly, plaintiff's failure to oppose should be deemed a waiver of opposition to the granting of the motion. In the alternative, the court has reviewed the motion and finds that it has merit. IT IS HEREBY RECOMMENDED that the March 19, 2010, motion to dismiss filed by defendant Porter is granted.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections shall be served and filed within ten days after service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

DATED: June 3, 2010

/s/ Gregory G. Hollows

UNITED STATES MAGISTRATE JUDGE

<sup>&</sup>lt;sup>1</sup>The docket shows that on May 17, 2010, plaintiff filed a non-opposition to a motion to dismiss filed by defendant Garcia. It may be that plaintiff meant to non-oppose defendant Porter's motion.