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

SARA BATTERHAM,

Plaintiff,

No. 2:11-cv-1118-GEB-EFB PS

vs.

MONO COUNTY LAW  
ENFORCEMENT, et al.,

Defendants.

ORDER

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On June 19, 2012, the assigned magistrate judge issued findings and recommendations, recommending that two motions to dismiss, including a motion filed by the Town of Mammoth Lakes, be granted; that plaintiff’s second amended complaint be dismissed without leave to amend; and that the Clerk be directed to close this case. Dckt. No. 33. On July 6, 2012, while those findings and recommendations were pending before the undersigned, attorney Scott Grossberg filed a declaration indicating that the Town of Mammoth Lakes filed a Voluntary Petition for Bankruptcy under Chapter 9 on July 3, 2012. Dckt. No. 35. Therefore, on July 25, 2012, the magistrate judge issued an order staying the action as to the Town of Mammoth Lakes pending resolution of the bankruptcy petition. Dckt. No. 37 at 2. The order instructed the parties to notify the court within fourteen days of the resolution of the bankruptcy proceedings, and stated that upon termination of the bankruptcy proceeding or an order granting relief from the

1 automatic stay, the court would resume consideration of the pending findings and  
2 recommendations as they relate to the Town of Mammoth Lakes. *Id.* at 3.

3 On September 10, 2012, the undersigned adopted the June 19, 2012 findings and  
4 recommendations in full, except as they apply to the Town of Mammoth Lakes, and dismissed  
5 plaintiff's second amended complaint as to all defendants but the Town of Mammoth Lakes  
6 without leave to amend. Dckt. No. 38 at 2-3. The order also reiterated that "[o]nce the  
7 bankruptcy stay has been lifted, the court will consider the findings and recommendations, as  
8 they apply to the Town of Mammoth Lakes." *Id.* at 2.

9 On November 28, 2012, Mr. Grossberg filed a declaration indicating that on November  
10 16, 2012, the Town of Mammoth Lakes' Chapter 9 bankruptcy case was dismissed by the  
11 bankruptcy court. Dckt. No. 39, Grossberg Decl., ¶ 4. Attached to the declaration is a copy of  
12 the Notice of Dismissal filed with the bankruptcy court. *Id.*, Ex. A.

13 In light of the dismissal of the Town of Mammoth Lakes' bankruptcy action, the court  
14 finds that the bankruptcy stay should be lifted. As a result, the undersigned has once again  
15 reviewed the June 19, 2012 findings and recommendations, as well as plaintiff's July 2, 2012  
16 objections thereto, and the applicable legal standards, and concludes that it is appropriate to  
17 adopt those findings and recommendations in full.<sup>1</sup>

18 Accordingly, IT IS HEREBY ORDERED that:

19 1. The stay of this action as to the Town of Mammoth Lakes, which was entered by this  
20 court on July 25, 2012, is lifted.

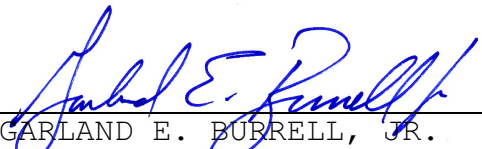
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23 <sup>1</sup> The court has reviewed de novo those portions of the proposed findings of fact to which  
24 objection has been made. 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore  
25 Business Machines, 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982). As  
26 to any portion of the proposed findings of fact to which no objection has been made, the court  
assumes its correctness and decides the motions on the applicable law. See Orand v. United  
States, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are  
reviewed de novo. See Britt v. Simi Valley Unified Sch. Dist., 708 F.2d 452, 454 (9th Cir.  
1983).

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- 2. The portions of the findings and recommendations filed June 19, 2012 relating to the Town of Mammoth Lakes are ADOPTED.<sup>2</sup>
- 3. The Town of Mammoth Lakes' motion to dismiss, Dckt. No. 20, is granted.
- 4. Plaintiff's entire second amended complaint is dismissed without leave to amend.
- 5. The Clerk of Court is directed to close this case.

Dated: November 29, 2012

  
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GARLAND E. BURRELL, JR.  
Senior United States District Judge

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<sup>2</sup> Since all other portions of the June 19, 2012 findings and recommendations were adopted on September 10, 2012, those findings and recommendations are now adopted in full.