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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CARLOS ESPINO,
Plaintiff,
v.
WALGREEN CO.,
Defendant.

No. 2:15-cv-00423-MCE-AC (PS)

ORDER

Plaintiff is proceeding in this action in pro per. The matter was referred to a United States Magistrate Judge pursuant to Local Rule 302(c)(21).

On September 21, 2015, the magistrate judge filed Findings and Recommendations herein (ECF No. 22) which were served on all parties and which contained notice that any objections to the Findings and Recommendations were to be filed within fourteen days. Plaintiff timely filed objections to the Findings and Recommendations (ECF No. 23), and Defendant filed a reply to Plaintiff's objections (ECF No. 24).

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, the Court has conducted a de novo review of this case. Having carefully reviewed the entire file, including Plaintiff's objections to the Findings and Recommendations, the Court finds the Findings and Recommendations to be supported by the record and by proper analysis. The Court will therefore adopt the Findings and Recommendations with a single modification: the dismissal


1 of Plaintiff's first amended complaint is without prejudice. Contrary to the Findings and
2 Recommendations, the Court finds that the First Amended Complaint could be saved by further
3 amendment.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. The Findings and Recommendations filed September 21, 2015 (ECF No. 22) are
6 ADOPTED AS MODIFIED;
- 7 2. Defendant's Motion to Dismiss (ECF No. 16) is GRANTED; and
- 8 3. Plaintiff's First Amended Complaint (ECF No. 15) is DISMISSED without prejudice.
9 Plaintiff is granted twenty (20) days from the date that this order is electronically filed to file a
10 Second Amended Complaint that cures the deficiencies identified in the Findings and
11 Recommendations. Failure to timely file a Second Amended Complaint in compliance with this
12 Order will result in this action being dismissed for failure to state a claim.

13 IT IS SO ORDERED.

14 Dated: November 10, 2015

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17 MORRISON C. ENGLAND, JR., CHIEF JUDGE
18 UNITED STATES DISTRICT COURT
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