IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

**CHARLES W. MILLER**,

Plaintiff,

v.

**ROBERT BUCKHOLTZ, WILLIAM COOLEY, MARGARET KALLUNKI, DEPRA POTTER, and DOES 1–3 in their personal and official capacities**,

Defendants.

No. 3:10-cv-00376-HU

OPINION AND ORDER

**MOSMAN, J.**,

Judge Hubel recommended [93] that Defendants' Motion To Dismiss [62] Plaintiff Charles Miller's Second Amended Complaint [52] be granted, and that the complaint be dismissed without prejudice except as against the late William Cooley. Neither party filed objections.

**DISCUSSION**

The magistrate judge makes only recommendations to the court, to which any party may file written objections. I am not bound by the recommendations of the magistrate judge; instead, I retain responsibility for making the final determination. I am required to review de novo those portions of the report or any specified findings or recommendations within it to which an

objection is made. 28 U.S.C. § 636(b)(1). However, I am not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether objections have been filed, in either case I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1).

Upon review, I agree with Judge Hubel's recommendation, and I ADOPT the F&R [93] as my own opinion.

IT IS SO ORDERED.

DATED this 16th day of June, 2014.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Judge