IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Daniel M. Bustamante, Plaintiff, v. Hector Gonzales, et al., Defendants.	No. CV-07-0940 PHX-DGC (JRI) **ORDER**

Pending before the Court are Plaintiff's Motion for Leave to File Second Amended Complaint, Plaintiff's proposed Second Amended Complaint and United States Magistrate Judge Jay R. Irwin's Report and Recommendation ("R&R"). Dkt. ##28, 29, 44. The R&R recommends that the Court grant the motion to amend and file the proposed second amended complaint. Dkt. #44 at 9. The Magistrate Judge advised the parties that they had ten days to file objections to the R&R and that failure to file timely objections could be considered a waiver of the right to obtain review of the R&R. *Id.* at 11 (citing Fed. R. Civ. P. 72; and Federal Rule of Appellate Procedure 4(a)(1)).

The parties did not file objections, which relieves the Court of its obligation to review the R&R. *See Reyna-Tapia*, 328 F.3d at 1121; *Thomas v. Arn*, 474 U.S. 140, 149 (1985) ("[Section 636(b)(1)] does not . . . require any review at all . . . of any issue that is not the subject of an objection."); Fed. R. Civ. P. 72(b)(3) ("The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to."). The Court will accept the R&R and grant the motion. *See* 28 U.S.C. § 636(b)(1) (stating that

the district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate"); Fed. R. Civ. P. 72(b)(3) ("The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.").

IT IS ORDERED:

1. Magistrate Judge Jay R. Irwin's R&R (Dkt. #44) is **accepted**.

2. Plaintiff's Motion for Leave to File Second Amended Complaint (Dkt. #28) is **granted**.

3. The Clerk shall file Plaintiff's proposed Second Amended Complaint (Dkt. #29).

DATED this 18th day of September, 2008.

David G. Campbell
United States District Judge