

II. STANDARD OF REVIEW

The district court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.”¹ When reviewing a magistrate judge’s report and recommendation in a case such as this one, the district court conducts *de novo* review of all conclusions of law,² and any findings of fact to which objections have been made.³ Uncontested findings of fact are reviewed for clear error.⁴

III. DISCUSSION

Having reviewed the file, including the parties’ recent papers, and applied the standard of review articulated above, this court concludes that the magistrate judge has correctly found the facts and applied the law. There is nothing in Hoffert’s objections not adequately addressed in the report at docket 20. This court adopts the magistrate judge’s recommended findings and conclusions at docket 20. There being no merit in Hoffert’s position, an evidentiary hearing would not be helpful. Rather, such a hearing is unnecessary.

In sum, this court has concluded that the petition in this case should be denied for the reasons explained by the magistrate judge, and has further concluded that there is no reason to conduct an evidentiary hearing. Given this disposition, a result which is fully consistent with the disposition sought by respondents, this court finds it

¹28 U.S.C. § 636(b)(1).

²*Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989), *overruled on other grounds by Simpson v. Lear Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir. 1996).

³28 U.S.C. § 636(b)(1).

⁴*Taberer v. Armstrong World Industries, Inc.*, 954 F.2d 888, 906 (3d Cir. 1992).

unnecessary to address respondents' criticism of the analytical approach used by the magistrate judge contained in respondents' briefing at docket 28.

IV. CONCLUSION

For the reasons above, this court adopts Magistrate Judge Irwin's recommended findings and conclusions. Based thereon, the motion at docket 25 is **DENIED**, and the petition at docket 1 is **DENIED**.

DATED at this 14th day of October 2009.

/s/ JOHN W. SEDWICK
UNITED STATES DISTRICT JUDGE